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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MARYLAND
3 UNITED STATES OF AMERICA :
4 and STATE OF MARYLAND, :
5 Plaintiffs :
6 vs. :
7 EDWARD AZRAEL, Individually :
8 and as Personal Representative:
9 for the Estate of AL LANDAY; : CIVIL ACTION
10 HARRIET AZRAEL, AT&T : No. 89-2898
11 TECHNOLOGIES, INC., GENERAL :
12 MOTORS CORPORATION, BALTIMORE :
13 GAS and ELECTRIC COMPANY, : Judge William N.
14 BROWNING-FERRIS, INC., and J. : Nickerson
15 WILLIAM PARKER and SONS, INC.,:
16 Defendants :
17 * * * * * * *

18 (Caption Continued)

19 CONTINUED DEPOSITION OF ALFRED TYLER, 2ND

20 Volume II

21 Reported by: Triminie M. Shelton

SALOMON REPORTING SERVICE, INC.
Baltimore, Maryland
(410) 539-6760

1 BROWNING-FERRIS, INC., :
2 Third-Party Plaintiff :
3 vs. :
4 MAYOR AND CITY COUNCIL OF :
5 BALTIMORE, KEWANEE INDUSTRIES, :
6 INC., BEATRICE COMPANIES, :
7 INC., and ALLIED-SIGNAL INC., :
8 Third-Party Defendants:
9 -----
10
11 Deposition of ALFRED TYLER, 2ND,
12 continued on Monday, December 9, 1991, at 9:45
13 a.m., at Suite 1700, 200 St. Paul Place,
14 Baltimore, Maryland, before Triminie M. Shelton,
15 Notary Public.

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APPEARANCES:

Patricia Kabloch Casano, Esquire,
On behalf of the U.S. Department
of Justice
Pamela D. Marks, Esquire,
On behalf of the State of Maryland
Andrew S. Goldman, Esquire,
On behalf of the Environmental
Protection Agency
Kim I. Montroll, Esquire,
Daniel A. Masur, Esquire,
On behalf of the City of Baltimore
Kathryn Thomson, Esquire,
On behalf of Defendant AT&T
Ronald D. Byrd, Esquire,
On behalf of Defendant BG&E
Brian Land, Esquire,
On behalf of Defendant
General Motors Corporation

1 APPEARANCES: (Continued)

2 Gary Justis, Esquire,

3 On behalf of Defendant

4 Browning-Ferris, Inc.

5 M. Lee Doane, Esquire,

6 On behalf of Defendant Exxon

7 B. Mark Hausman, Esquire,

8 On behalf of Defendant

9 Kewanee Industries

10 John A. Gillan, Esquire,

11 On behalf of Defendant

12 Beatrice Company

13 Samuel A. Bleicher, Esquire,

14 On behalf of Defendant

15 Allied-Signal Inc.

16 Robert Brager, Esquire,

17 On behalf of Defendant

18 Sweetheart Cup

19 Thomas L. Crowe, Esquire,

20 On behalf of Defendant

21 PORI International, Inc.

1 APPEARANCES: (Continued)

2 Parker E. Brugge, Esquire,

3 On behalf of Defendant

4 Canton Company of Baltimore

5 Tom Lingan, Esquire,

6 On behalf of Defendant

7 Armco Steel, Inc.

8 Charles R. Schaller, Esquire,

9 On behalf of Defendants

10 Azrael and Landay

11 Randall M. Lutz, Esquire,

12 On behalf of the Deponent

13
14 Also present: Jennifer Negus, legal assistant15
16
17
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19
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21

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STIPULATION

It is stipulated and agreed by and between counsel for the respective parties that the filing of this deposition with the Clerk of Court is hereby waived.

ALFRED TYLER, 2ND,

having been previously sworn, resumed and testified further as follows:

EXAMINATION BY MR. CROWE:

Q. Mr. Tyler, my name is Tom Crowe and I represent a company which is presently known as PORI International, Inc. There was a related company known by the name of Palm Oil Recovery, Inc. Can you tell me whether either PORI International Inc. or Palm Oil Recovery Inc. was ever a Robb Tyler customer?

A. I think they were.

Q. Do you recall when they became a Robb Tyler customer?

A. Not specifically, no, I don't.

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1 Q. Do you recall that PORI or Palm Oil
2 Recovery, Inc. was located in Bethlehem Steel?

3 A. Yes, I do.

4 Q. Now, in the sworn statement which you
5 previously gave to some of the defendants in this
6 case, I recall that you testified that for a
7 period of time Bethlehem Steel had its own
8 landfill or disposal facility within the
9 Bethlehem Steel plant. Do you, in fact, recall
10 that?

11 A. I don't recall testifying to it, but I
12 recall their having their own disposal areas,
13 yes.

14 Q. And do you know for what period of time
15 Bethlehem Steel had its own disposal facility
16 located at the Bethlehem Steel plant?

17 A. As far as I remember, it was, they
18 always had their own disposal down there until
19 the late '60s.

20 Q. But I take it you don't recall
21 precisely when it was that they either stopped

1 using the disposal facility or they filled up
2 their --

3 A. I really don't, but it was somewhere in
4 the late '60s.

5 MR. CROWE: I would like to have marked
6 as Mr. Tyler's next deposition exhibit a packet
7 of papers.

8 (Whereupon, Tyler Deposition
9 Exhibit Nos. 15-A through 15-H, packet of service
10 orders, marked.)

11 Q. Mr. Tyler, we have had marked as your
12 Deposition Exhibit 15-A through 15-H papers which
13 were entitled Robb Tyler, Inc. Service Order and
14 they are dated between July 2, 1969 and October
15 13, 1969.

16 First of all, are you familiar with
17 this type of document?

18 A. Yes, I am.

19 Q. And do these, in fact, appear to be
20 copies of the service orders which Robb Tyler was
21 using during the fall of 1969?

1 A. Yes.

2 Q. During the fall of 1969, during the
3 summer and fall of 1969, did Robb Tyler have
4 employees whose job it was to solicit and obtain
5 new business?

6 A. Yes, they did.

7 Q. And do you recall what people performed
8 that function for Robb Tyler in the summer and
9 fall of 1969?

10 A. Francis Marbury was the head of the
11 sales department. Lee Rosa, Walter Hewitt, and
12 there might have been a few other salesmen but I
13 don't recall.

14 Q. If you would look down at the bottom of
15 15-A next to the notation salesman, there are the
16 notations LMR. Are those the initials for Lee
17 Rosa?

18 A. They appear to be, yes.

19 Q. There appear to be other people who
20 have initialed the bottom of the exhibit which
21 has been marked as 15-A. Would you just read

1 across, read the initials and tell me whose
2 initials those are.

3 A. MG would have been Mary George, would
4 have been the secretary who wrote the order at
5 the instructions of the salesman; the dispatcher
6 would probably be Lou Warns and the other one
7 would be Jim Bennett, and the RT would probably
8 be Robb Tyler.

9 Q. Do you, in fact, recognize the
10 handwriting of any of those individuals?

11 A. No, I don't.

12 Q. So you are just testifying that they
13 probably signed it because those appear to be
14 their initials and they occupied the positions
15 indicated on the form?

16 A. That is true.

17 Q. Do you know where Mary George is today?

18 A. No, I don't.

19 Q. Do you know if she is alive?

20 A. I think she is.

21 Q. When is the last time you had any

1 contact with her?

2 A. Several years ago, I would guess.

3 Q. And do you know where she was working
4 or where she was living at that time?

5 A. I don't remember.

6 Q. Okay, is Lou Warns still alive?

7 A. I think so.

8 Q. When was the last time you had any
9 contact with him?

10 A. It has been years ago.

11 Q. Do you know where he was working or
12 where he was living at that time?

13 A. I really don't. I think he is
14 retired.

15 Q. Now, turning your attention again to
16 your deposition Exhibit 15-A, up in the upper
17 left-hand corner there is a block checked marked
18 New Order. Can you tell us what if anything that
19 signified on this Robb Tyler form in July of
20 1969.

21 A. It would signify a new order as opposed

1 to an old customer.

2 Q. Okay. If you would look also at 15-A,
3 there are notations by New Service and the side
4 of the form designated for old service are
5 blank. What if anything would that indicate?

6 A. That up until that time they were
7 probably not a customer.

8 Q. Would you look further down to the type
9 of service under the New Service column, and see
10 the notation, one six-yard dumpster?

11 A. Yes.

12 Q. Following that there are either the
13 letters CI circled or it could perhaps be C1.
14 Could you tell me what if anything that
15 signified?

16 A. Call-in.

17 Q. Would you take a look at the second
18 page which is marked as 15-B. Now, 15-B appears
19 to be a copy of 15-A, except that some of the
20 blanks on the bottom, some of the notations on
21 the bottom are different and then there is

1 something scrawled across the top of it. Were
2 the service orders, in fact, either double or
3 triple forms with carbons, if you recall?

4 A. I think they were.

5 Q. Across the face of this there is
6 written the notation, "Void, never placed, no
7 green."

8 Do you recognize that handwriting?

9 A. No, I don't.

10 Q. Do you know what the notation "void"
11 means or meant on a Robb Tyler service order in
12 July of 1969?

13 A. That the order was void.

14 Q. Do you know what the notation "never
15 placed, no green" refers to?

16 A. Never placed, I would assume, meant
17 that the container was never placed. No green
18 really has no significance that I know of.

19 Q. You don't know what the person who
20 wrote that might have meant?

21 A. Other than that the customer didn't pay

1 us. The client didn't pay us. I don't know.

2 Q. But at any rate, you would interpret
3 this to mean that the container was never placed
4 and that the service was not initiated, at least
5 at that time?

6 A. That is true.

7 Q. Would you go to 15-C, please, that is
8 the third page. Is this also a Robb Tyler
9 service order?

10 A. Yes, it is.

11 Q. Is this also checked as a new order
12 with no old service being indicated?

13 A. Yes, it is.

14 Q. And would that mean the same thing to
15 you, that the customer reflected on this had not
16 previously been a Robb Tyler customer?

17 A. That is what it would appear.

18 Q. The type of service here is indicated
19 as "six-yard, their container." What does that
20 signify?

21 A. I would assume that it means that the

1 container was, belonged to Palm Oil Recovery.

2 Q. And rather than the initials CI being
3 circled, this time the initials, there is a
4 notation circled which I assume means that,
5 refers to Monday through Saturday; is that
6 correct?

7 A. That is correct.

8 Q. And what is the significance of the
9 circling of that notation?

10 A. That it will be picked up every day.

11 Q. Would you drop down to the bottom and
12 tell me if you can identify the initials of the
13 individual which is placed next to the notation,
14 Salesman.

15 A. Yes, that would be Francis Marbury.

16 Q. And Mr. Marbury is deceased?

17 A. Yes, he is.

18 Q. Next to the notation Per, that is
19 P-E-R, there is something written. Can you tell
20 me what that says.

21 A. "Vette." She was the sales secretary.

1 Q. What is her full name?

2 A. I think she was married several times.

3 Q. Next to Dispatcher would those again be
4 Mr. Warns' initials and Mr. Bennett's?

5 A. I think so.

6 Q. And the RT would probably have been
7 signed by your father?

8 A. Yes.

9 Q. Now, if we could, would you go back to
10 the previous page. That is the first document
11 which we have received which assigns a customer
12 number for Palm Oil Recovery, Inc. Under what
13 circumstances would Robb Tyler, Inc. assign a
14 customer number to a company?

15 A. When they became a customer.

16 Q. So if they previously had been a
17 customer they would presumably have a customer
18 number and it would have shown up in the earlier
19 service orders?

20 A. That is correct.

21 Q. Do you know how the customer number was

1 selected? Was it done sequentially, was it done
2 alphabetically, was it done some other way?

3 A. I have no idea.

4 Q. Would you take a look at 15-D for just
5 a minute. I am sorry, let's go on to 15-E. 15-E
6 is really just a copy of the other two; is that
7 correct?

8 A. It appears to be, yes.

9 Q. In that case let's go to 15-F. Would
10 you explain the notations under the Type of
11 Service block under both the new service and the
12 old service for 15-F.

13 A. Under the New Service would be placing
14 another container. Under old service it just
15 shows that the old service was still in effect, I
16 think.

17 Q. And does it not indicate at this point
18 that the six-yard container was ours, and by ours
19 does that mean Robb Tyler?

20 A. Yes.

21 Q. And that a three-yard dumpster was

1 theirs?

2 A. That is correct.

3 Q. Does that signify that the three-yard
4 dumpster belonged to the customer, in this case
5 Palm Oil Recovery, Inc.?

6 A. That is correct.

7 Q. Would you take a look at 15-G, please.
8 Now, in 15-G I would like to refer you down to
9 the notation for the route number; do you see
10 that? It says route No. 39?

11 A. Uh-huh.

12 Q. What did that signify?

13 A. The route.

14 Q. As you sit here today, can you recall
15 what route 39 was for Robb Tyler in October of
16 '69?

17 A. I have no idea.

18 Q. Would a route number only be assigned
19 if Robb Tyler drivers typically picked up from
20 Robb Tyler customers?

21 A. I am not sure whether or not the

1 subcontractors were designated as a route.

2 Q. And by subcontractors are you referring
3 to owner/drivers or are you referring to
4 companies such as North Point Trash Removal?

5 A. Both.

6 Q. So you are just not sure in that
7 instance?

8 A. No.

9 Q. Is there anybody presently with Robb
10 Tyler who you think might have been able to
11 answer that question?

12 A. I really don't know.

13 Q. That is an awful question. Is there
14 anybody who is still alive today who you think
15 would be able to answer that question?

16 MS. CASANO: Tom, I am not sure which
17 question you are referring to.

18 Q. Yes, as to whether a route number would
19 be assigned if the trash were being picked up by
20 North Point Trash Removal.

21 A. I really don't know.

1 Q. Okay. Did you have any part in turning
2 over the Robb Tyler records to Browning-Ferris,
3 Inc. in connection with their acquisition of Robb
4 Tyler, Inc.?

5 A. Not that I recall.

6 MR. CROWE: Thank you, that is all I
7 have.

8 Let me refer you back to 15-E. A
9 couple counsel have asked me to inquire about a
10 matter. At the bottom it states, container
11 placed 10/2/69 by 222. What does the notation
12 "container placed" mean?

13 A. That the container was placed as per
14 the order.

15 Q. Does 10/2/69 indicate the date that the
16 container was placed?

17 A. Yes, it does.

18 Q. What does the number 222 mean?

19 A. It was probably the truck number.

20 Q. Would it be a truck number or driver
21 number?

1 A. I think that would be a truck number.

2 MR. CROWE: Thank you again.

3 EXAMINATION BY MR. BLEICHER:

4 Q. Good morning, I am Sam Bleicher. I am
5 counsel for Allied-Signal and I have a number of
6 questions for you. Some of these I am afraid are
7 repetition of things you have already answered
8 before and I may have not got the answers.

9 Let me start at the beginning with a
10 little bit about your background. What did you
11 say about your education level? What was highest
12 grade you graduated?

13 A. College.

14 Q. What school?

15 A. Chapel Hill, North Carolina.

16 Q. We have had some other witnesses whose
17 ability to read was questionable. I don't think
18 we would put you in that category. If it becomes
19 important --

20 A. You can decide later.

21 Q. And when you came to work for the

1 company, you have been asked a couple times what
2 your duties were. Could you explain what your
3 duties were.

4 A. Well, originally mostly in the
5 maintenance area.

6 Q. Your father owned the company?

7 A. That is correct.

8 Q. And you anticipated that eventually you
9 would be taking serious managerial responsibility
10 for the company; is that a fair --

11 A. I don't really remember what I thought
12 at the time.

13 Q. Right after college. Okay. Did you
14 consider that one of the, one of your roles was
15 to learn as much as you could about the business
16 in general?

17 A. I guess.

18 Q. Okay. So you may have spent time
19 talking to other people about who did what and
20 learned a lot by talking to people in the company
21 including your father, I suppose?

1 A. I guess that is a reasonable
2 assumption.

3 Q. Let me come to more concrete
4 questions. Let me draw your attention to Tyler
5 Exhibit 14, which I guess I can show you from the
6 copy. This is from the first half of your
7 deposition, the interview with Joan
8 Martin-Banks.

9 If you will turn to page 2, there is a
10 list of companies that you identified as Robb
11 Tyler customers; is that right? You want to read
12 that over?

13 A. I assume. I think all of those were
14 probably customers at one time or the other.

15 Q. And Allied-Signal is not on that list,
16 or Allied Chemical Corporation is not on that
17 list?

18 A. I don't see them on that list, no.

19 Q. Fine. Thank you.

20 Let me now ask you to -- I guess I will
21 read to you the statement and you probably have a

1 copy of your statement from August 27, 1990, the
2 statement you gave at Piper & Marbury, I think
3 your counsel must have a copy so you can read
4 along with me. I am reading from page 126 and
5 127 and I guess what I am going to do is read
6 this into the record and then ask you some
7 questions about it. So let me begin reading with
8 line 14.

9 "Question: Where was Allied Chemical
10 located?

11 "Answer: I assume that was Block and
12 Wills.

13 "Question: Block and Wills Street?

14 "Answer: Yes.

15 "Question: Is that east Baltimore?

16 "Answer: Right here.

17 "Question: It's right downtown?

18 "Answer: But the chrome ore waste,
19 which is probably what you are more interested
20 in, of Allied, did not go to either one of those
21 facilities.

1 "Question: What kind of waste?

2 "Answer: The chrome ore --

3 "Question: Where did it go?

4 "Answer: Part of it ended up down
5 Solley Road later.

6 "Question: What waste of theirs
7 went --

8 "Answer: It also went to Old Harbor
9 Field and also a special dump for it down off of
10 Hawkins Point Road.

11 "Question: What waste of theirs went
12 either to Kane and Lombard or Rosedale?

13 "Answer: I would assume it's general
14 trash out of the plant. It was no specific
15 classifications.

16 "Question: Were there any drums in
17 those loads?

18 "Answer: Maybe there were. Maybe
19 there weren't. I think there was a compaction
20 unit there, I remember."

21 That is the end of the quote.

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1 Let's turn to lines 18 and 19 where you
2 were asked basically, where is Block and Wills
3 Street, and you answered: "Right here."

4 "Question: It's right downtown?"

5 And then you went off to another
6 subject about chrome ore. If you look at the
7 language there, when you said it is right here,
8 you were at 36 South Charles Street in Baltimore
9 in Piper & Marbury's office. What did you mean
10 by "right here"?

11 A. I must have been pointing at a map.

12 Q. Oh. I thought maybe you were pointing
13 out the window actually. Do you know where the
14 plant is? Do you know where Block and Wills is?

15 A. Yes.

16 Q. Is it east Baltimore?

17 A. Yes, it is east Baltimore, it is in
18 east Baltimore.

19 Q. You consider it to be east Baltimore.
20 All right.

21 Let me now turn your attention to

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1 Exhibit 13, I think it is Exhibit 13, the
2 customer list that you marked up.

3 MR. LAND: It is Exhibit 12.

4 MR. CROWE: Exhibit 12, all right.

5 MR. LAND: You may be right. It is
6 13.

7 MR. GOLDMAN: The one that he marked
8 was 13.

9 Q. Let me draw your attention to Exhibit
10 13 from the earlier portion of this deposition.
11 This is the list that, well, you tell me what the
12 list is. This is the list you submitted, right?
13 You recall discussing this document, I imagine?

14 A. Yes.

15 Q. Okay. You want to just say what it
16 is.

17 A. Looks like a partial list or a list of
18 some of the customers of Robb Tyler, Inc.

19 Q. Is this the list that you were going to
20 mark to indicate which ones probably went to
21 Rosedale?

1 A. I assume so.

2 Q. That is what it was presented to you
3 for, and did you mark Allied on this list? Did
4 you find Allied on this list, first of all?

5 A. Yes, I do.

6 Q. Did you mark Allied?

7 A. Apparently not.

8 Q. Okay. You had said in your testimony
9 in the first portion of this deposition that you
10 marked entities because of their proximity to the
11 Rosedale and Kane and Lombard landfills?

12 A. That is correct.

13 Q. All right, coming back to your
14 statement, your earlier statement at lines 13 and
15 14 on page 127 -- well, first let's talk about
16 the chrome ore residues which is the material on
17 pages, there is a discussion that starts line 21
18 of page 126 and turns onto page 127. You
19 indicate that material did not go either to
20 Rosedale or to Kane and Lombard?

21 A. Yes, that is correct.

1 Q. Was that material, how would you
2 characterize that material? Was that trash, was
3 it a production byproduct, was it --

4 A. It was chrome ore tailings from the
5 making of chrome.

6 Q. And was there a large quantity of that
7 material?

8 A. Yes, there was.

9 Q. And it was your understanding that the
10 chrome, all of the chrome-contaminated waste went
11 into that waste stream and were disposed of that
12 way?

13 A. You will have to clarify that.

14 Q. Well there were other wastes that were
15 also chrome contaminated, there might have been
16 other production byproducts.

17 A. I am not enough really familiar enough
18 with the process.

19 Q. So that waste was handled separate by
20 Allied as far as you know?

21 A. That is correct.

1 Q. Okay. And then the question was asked,
2 this is line 13 and 14: "What waste of theirs,"
3 meaning Allied's, "went either to Kane and
4 Lombard or to Rosedale?"

5 And your answer was: "I would assume
6 it's general trash out of the plant. It was no
7 specific classifications."

8 First, do you have knowledge that any
9 of Allied's wastes went to Rosedale or Kane and
10 Lombard?

11 A. No, I don't.

12 Q. You were then asked: "Were there any
13 drums in those loads," and you say, "maybe there
14 were, maybe there weren't. I think there was a
15 compaction unit there, I remember."

16 What would be the significance of there
17 being a compaction unit? What would that tell
18 you about drums or the nature of the material
19 that was being handled?

20 A. A compaction unit would, by definition,
21 not handle drums.

1 Q. Would it handle --

2 A. General trash.

3 Q. It would handle general trash,
4 meaning --

5 A. Wood waste, paper waste.

6 Q. Chrome ore tailings would not be a part
7 of that?

8 A. No.

9 Q. All right. You wouldn't put liquid in
10 a compaction unit either, I assume?

11 A. Not intentionally, no.

12 Q. All right.

13 MR. BLEICHER: I think that is all my
14 questions. Thank you.

15 EXAMINATION BY MR. LINGAN:

16 Q. Mr. Tyler, my name is Tom Lingan. I
17 represent Armco, Inc. You may know them as Armco
18 Steel Corporation.

19 I want to show you Exhibit 6-A which
20 was previously shown to you in your prior
21 appearance here. I know there have been some

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1 objections about whether this diagram is drawn to
2 scale. As I understand the markings that were
3 made or at least referred to you at the last
4 time, it was my understanding that this circled
5 area is the area of the Sauer dump in which you
6 have some personal knowledge about the
7 disposition and the placement of waste.

8 A. Given the general nature of this map,
9 yes. It was down in that area.

10 Q. Okay. Now --

11 A. I can't really be specific.

12 Q. Sure. How is it that you can be
13 specific to this general locale, not necessarily
14 this specific location but everything, say, north
15 of what --

16 A. Just as I remember when driving in
17 there, it was back in this area.

18 Q. Okay, that is based upon --

19 A. That is all I remember.

20 Q. That is based upon your personal
21 observation of wastes being disposed of there or

1 during the visits you --

2 A. From what I can remember of over 20
3 years ago.

4 Q. And how often did you go to the site,
5 again, approximately?

6 A. I just don't recall.

7 Q. During that interim period was it more
8 frequently?

9 A. Yes, could have been once a day, could
10 have been three days a week, just depended.

11 Q. Okay. I also want to show you what
12 Mr. Bleicher previously referred to as Tyler
13 Exhibit No. 14, and again, these are notes
14 prepared by the EPA investigator regarding a
15 conversation that he had with you on September
16 10, 1987, and again referring to page 2 of that,
17 and I realize it is a redacted version so it is
18 difficult for you, I am sure, to recall what you
19 said, but specifically I want to read this: "When
20 asked about customers Robb Tyler, Inc. had at the
21 time Sauer's dump was in operation, Tyler

1 indicated the following among the firm's
2 customers," and it lists eight or so customers,
3 if you will see there, and again, as I understand
4 it, it is based upon their geographic proximity
5 to Sauer's and/or your company's landfill?

6 A. And probably the questions by the
7 investigator.

8 Q. Now, I noticed that, of these eight,
9 only two were marked during your later markup of
10 the list that you had been provided by, I believe
11 it was Mr. Grummer at the earlier deposition or
12 interview that was conducted last summer.

13 A. That is correct.

14 Q. Any reason as to why these would have
15 been identified two years prior to that and not
16 identified at a later review of them?

17 A. I really have no idea. The interview,
18 I never saw any notes on it. I was never given
19 anything to review.

20 Q. Now, with respect to the customers
21 which you have identified or at least the

1 marked-up list that you identified, do you have
2 any personal knowledge about the disposal of
3 their waste at the Sauer dump?

4 A. I can't say that I have personal
5 knowledge, no. Other than the assumptions that I
6 have already made.

7 MR. LINGAN: Thank you, that is all I
8 have.

9 EXAMINATION BY MR. BRUGGE:

10 Q. Hi, Mr. Tyler, my name is Parker
11 Brugge. I represent the Canton Company of
12 Baltimore.

13 With respect to Sauer's landfill, do
14 you recall testifying earlier that Albert Landay
15 was Fritz Sauer's landlord?

16 A. That is what I assumed, yes.

17 Q. Do you know when that landlord-tenant
18 relationship began?

19 A. No, I do not.

20 Q. Do you know if Fritz Sauer ever leased
21 this particular land from anyone else?

1 A. No, I do not.

2 MR. CROWE: Could you speak up a little
3 bit, I am having trouble hearing the questions
4 and the answers.

5 MR. BRUGGE: I have no more questions.

6 EXAMINATION BY MS. DOANE:

7 Q. Good morning, Mr. Tyler, my name is Lee
8 Doane and I am here today representing Exxon
9 Corporation.

10 At your last deposition you were asked
11 several questions by Mr. Grummer regarding
12 whether or not a customer could have been
13 simultaneously a customer of Robb Tyler, Inc. and
14 Fred/Fritz Sauer or North Point Trash Removal; do
15 you recall that, sir?

16 A. Yes.

17 Q. And you stated at one point on page 156
18 of your transcript that it was, "very unusual, I
19 guess it would be possible, I don't recall."

20 Then later on you were asked
21 specifically about Standard Oil and you replied

1 on page 158: "It is possible."

2 Was your statement, sir, just
3 speculation as to what you thought could be
4 possible?

5 A. That is correct.

6 Q. And you don't know or have any proof --

7 A. No specific knowledge.

8 Q. Excuse me, you don't know or have any
9 personal knowledge that Standard Oil was
10 simultaneously a customer of Robb Tyler and
11 Fred/Fritz Sauer?

12 A. No, I don't.

13 Q. And you don't have any personal
14 knowledge that Standard Oil was a customer of
15 Fred/Fritz Sauer or North Point Trash Removal?

16 A. No, I don't.

17 Q. The other questions are just to clarify
18 various bits of the transcript.

19 When you gave your interview on August
20 27, 1990, on pages 28 and 29 you were asked two
21 questions. The first was: "Do you know if it

1 worked the other way, that Robb Tyler drivers
2 would pick up from Sauer customers and take it to
3 their dump, or was it always the other way
4 around?"

5 And you replied: "It was always the
6 other way."

7 Sauer would be helping out Robb Tyler
8 and bringing it to his dump?"

9 And your answer was, "yes."

10 When you stated Sauer would be helping
11 out or when the question was asked, Sauer would
12 be helping out Robb Tyler and bringing it to his
13 dump, when you answered that question, sir, did
14 you mean "his" to mean Robb Tyler's dump?

15 A. I really don't recall that, but in a
16 case like that it could have gone to any number
17 of dumps.

18 Q. When Fred Sauer helped out Robb Tyler,
19 he took his material to --

20 A. Sometimes he would take it to his own,
21 sometimes he would take to it one of ours because

1 he would take it to one of the county landfills.

2 Q. During the window period that we have
3 all been referring to sometime in the summer of
4 1969, did Robb Tyler drivers use Baltimore County
5 landfills?

6 A. Yes, they did.

7 Q. Can you name any particular companies
8 during this period whose wastes more likely than
9 not would have gone to Baltimore County
10 landfills?

11 A. Offhand, no.

12 Q. You also stated earlier that sometime
13 in the early '80s, Modern, Inc. acquired the
14 assets of Modern Trashmoval. Who owned Modern
15 Trashmoval at that time?

16 A. Robb Tyler.

17 Q. Who owned Modern, Inc. at that time?

18 A. I think that was owned by Land
19 Reclamation, Inc.

20 Q. Was it your previous testimony that
21 Modern Trashmoval and Robb Tyler, Inc. were

1 competitors?

2 A. Earlier, yes.

3 Q. Okay, what period of time were they
4 competitors?

5 A. I guess basically all along.

6 Q. Well, at what period of time, then, did
7 Robb Tyler --

8 A. That was Robb Tyler personally, not
9 Robb Tyler, Incorporated.

10 Q. Okay, that is my confusion. So Robb
11 Tyler personally owned Modern Trashmoval?

12 A. That is correct.

13 Q. And when did Robb Tyler purchase Modern
14 Trashmoval?

15 A. I think in about 1975.

16 Q. And from whom -- do you know, sir, of
17 your own personal knowledge from whom Robb Tyler
18 purchased --

19 A. I think it was the Sanitas
20 Corporation.

21 Q. And do you know of your own personal

1 knowledge when the Sanitas Corporation purchased
2 Modern Trashmoval?

3 A. I think in the late '60s.

4 Q. Do you know any of the principals of
5 the Sanitas Corporation at this time?

6 A. I don't recall.

7 Q. Did you have any personal involvement
8 in the purchase of Modern Trashmoval?

9 A. No, I did not.

10 Q. During the time that you worked for
11 Robb Tyler from 1965 to 1970, would it be correct
12 to describe the waste hauling business as very
13 competitive business?

14 A. Yes, it would.

15 MS. DOANE: That is all I have, thank
16 you.

17 EXAMINATION BY MR. GILLAN:

18 Q. Mr. Tyler, my name is John Gillan, I am
19 here for Beatrice Company.

20 Turning your attention back to Exhibit
21 15 which Mr. Crowe examined you about, he had

1 asked you some questions about the service order
2 and you had indicated that if the old service
3 section was blank, that probably meant that the
4 individual or the company was not a customer of
5 Robb Tyler prior to the date that would appear on
6 the service order; is that a fair statement of
7 your testimony?

8 A. That is fair.

9 Q. So as far as I could tell, if we read
10 Exhibit 15 in its entirety, it appears that PORI
11 or Palm Oil Recovery was not a customer prior to
12 at least July and possibly October of 1969; is
13 that a fair reading of Exhibit 15?

14 A. That is.

15 Q. Turning your attention to Exhibit 12
16 from the deposition last time, which is the list
17 of, customer list dated March 31, 1991 that is
18 labeled Recap of Accounts, and let me just show
19 you a particular page. I am looking at Bates
20 stamped page 1249 which is also page 35 of this
21 document.

1 Could you read the second-to-last
2 customer name on that list.

3 A. Palm Oil Recovery, Inc.

4 Q. Okay. Taking your testimony regarding
5 Exhibit 15, which indicates that more likely than
6 not Palm Oil Recovery was not a customer prior to
7 the October period of 1969, do you think it is a
8 fair statement to say that simply because a
9 client or a customer was on this 1970 list
10 doesn't necessarily mean that they were a
11 customer for a particularly long period of time?

12 A. They could have been a customer for a
13 day or ten years.

14 Q. Okay, very good.

15 I just want to pin down your time of
16 employment. I believe that you were employed
17 with Robb Tyler and then subsequently with
18 Browning-Ferris from 1965 through approximately
19 1979?

20 A. That is correct.

21 Q. During that time period, that is --

1 well, see, I didn't go into science, my math was
2 terrible -- 14 years; is that correct? Give or
3 take?

4 A. Give or take.

5 Q. So over that period of time you would
6 have seen a lot of customers come and go; is that
7 a fair statement?

8 A. I guess that is a fair statement.

9 Q. Now, turning your attention to Exhibit
10 14, the list which was incorporated in your
11 interview with Ms. Martin-Banks which a number of
12 people have shown you before, indicated there is
13 a company called Farboil. Also at page 282 of
14 the transcript from last time, I believe they
15 discussed Farboil and you indicated that you knew
16 they were a customer but you really weren't sure
17 when.

18 A. That is correct.

19 Q. Would it be fair to say that over the
20 period of 14 years it is difficult for you to
21 tell when someone became a customer, people's

1 accounts get mixed in together and sort of the
2 time melds and unless there is a significant
3 event related to the picking up of that person as
4 a customer, you wouldn't know the time exactly
5 when they did become one?

6 A. That is fair.

7 MR. GILLAN: That is all I have.

8 EXAMINATION BY MR. HAUSMAN:

9 Q. Hi, Mr. Tyler, my name is Mark Hausman
10 and I represent Kewanee Industries.

11 Back on November 20 in your previous
12 deposition, Tom Ryan, who represents BFI, asked
13 you if Bruning Paints was ever a customer of Robb
14 Tyler and you indicated that as far as you
15 remember, yes, they were; is that right?

16 A. That is correct.

17 Q. And he also asked you if you remembered
18 what time frame and you said you really didn't
19 know?

20 A. That is correct.

21 Q. And he also asked if you recalled where

1 the facility was located and you did not recall
2 that either?

3 A. That is correct.

4 Q. Okay. How was it that you remember
5 that Bruning Paint was a customer of Robb Tyler,
6 Inc.?

7 A. I just remember the name.

8 Q. You just remember the name?

9 A. Yes.

10 Q. Are you familiar with Bruning Paint
11 stores, the outlet facilities for Bruning Paint?

12 A. I guess, yes.

13 Q. Could it be that you are just familiar
14 with the name through the stores and not
15 necessarily that they were a Robb Tyler customer?

16 A. That probably could be.

17 Q. Okay.

18 A. Nothing specific in my memory other
19 than the familiarity with the name.

20 MR. HAUSMAN: Okay, thank you,
21 Mr. Tyler.

1 EXAMINATION BY MR. BRAGER:

2 Q. Good morning, Mr. Tyler, my name is Rob
3 Brager. I represent Sweetheart Cup Corporation
4 and International Paper in this case.

5 I would like to first ask you a few
6 generic questions. One is, you testified, I
7 believe, that during this window period, that
8 there were county dumps that were operating that
9 would take waste?

10 A. That is correct.

11 Q. Where were those dumps located?

12 A. I think there would have been one down
13 in what is known as the Baltimore Highlands, and
14 I think the Texas Landfill was probably operating
15 at that time.

16 Q. That is in northern Baltimore County;
17 is that correct?

18 A. That is north of Towson, Cockeysville.

19 Q. Would that be a logical place for the
20 waste from Sweetheart Cup's Owings Mills facility
21 to be taken?

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1 A. Which?

2 Q. The Texas facility.

3 A. I just don't recall.

4 Q. You don't recall at all where it was
5 taken?

6 A. No.

7 Q. In the 1960s through the early 1970s --
8 I am only limiting the questioning to that time
9 period because that is what is relevant to us,
10 you can expand on it if you want to -- did Robb
11 Tyler, Inc. and then later BFI haul liquid,
12 drummed liquid waste?

13 A. Probably.

14 Q. Is there any particular place where
15 that waste would have been taken?

16 A. Could have gone to any of the
17 landfills.

18 Q. Could have gone to any of the
19 landfills. Would that waste have been buried
20 whole in the drums or would it have been burned
21 in any way?

1 A. At one point it could have been
2 burned. It would never have been put in whole in
3 the drums.

4 Q. How would you have disposed of it?

5 A. The drums would have been emptied.

6 Q. And how would you have emptied the
7 drums?

8 A. Just empty them into the trash.

9 Q. You would have poured --

10 A. Tipped them over and --

11 Q. Poured them into the trash itself?

12 A. That is correct.

13 Q. And that could have been done at any of
14 the landfills?

15 A. That is correct.

16 Q. Would the bulldozer operator know if
17 that was going to happen, if that was happening?

18 A. I would think so.

19 Q. I believe you testified earlier that
20 Fritz Sauer was a subcontractor of Robb Tyler's.

21 A. That is correct.

1 Q. How did you choose or how did Robb
2 Tyler choose the customers to be subcontracted to
3 Fritz Sauer?

4 A. I just don't remember.

5 Q. Did Robb Tyler or BFI have stations, I
6 don't know if I would call them transfer
7 stations, stations where waste was compacted
8 prior to being landfilled?

9 A. At that time, no.

10 Q. Not in the '60s through the early '70s?

11 A. No. Other than -- no. There was a
12 transfer station at Bethlehem Steel, but I think
13 it was later.

14 Q. I believe, and I couldn't find it, I
15 looked for it, but I believe you described
16 something when your deposition started last time,
17 you called something a packer truck. I think you
18 did or I heard it. Can you tell me -- is there
19 such a thing as a packer truck?

20 A. A regular, what you would consider a
21 garbage truck.

1 Q. Is a packer truck? I have heard
2 various trucks being described as compactor
3 trucks. Is that something different?

4 A. Probably the same.

5 Q. And how large in terms of yards, how
6 large would the waste be from this packer truck,
7 do you know?

8 A. Are you asking how large were the
9 trucks?

10 Q. I guess. A witness earlier testified
11 that there was 40-yard compactor waste put in a
12 site, for example.

13 A. That would be on a roll-off truck and
14 that would be a compactor container that would be
15 left at the customer's site hooked up to a
16 compaction unit which would stay at the
17 customer's site. It would pack the waste into
18 that container. The truck would come and pick
19 that container up and take to it the landfill.

20 Q. At that time did Robb Tyler, Inc. or
21 BFI operate a portable truck where you would take

1 the waste from various small facilities and
2 compact them as you drove around --

3 A. Yes.

4 Q. -- and dump this 40-yard compactor
5 waste?

6 A. Those trucks were normally 30-yard.

7 Q. Normally 30-yard. Did you have any
8 40-yard compactor trucks?

9 A. No. I think you are probably confusing
10 some of the types of equipment.

11 Q. I am, no question about it. I am
12 trying to reconcile the testimony of a witness
13 that there was 40-yard compactor waste including
14 waste from a certain facility when that facility
15 did not have a 40-yard compactor. I am trying to
16 see if it is possible that the waste from that
17 facility would have gotten into a 40-yard
18 compactor another way, and what you are saying to
19 me is it would have been 30-yard compactor waste
20 had it been on a truck that was driving --

21 A. It would be a truck that would go by

1 and pick up smaller containers, dump them into
2 its body, pack them back and then go to the next
3 customer.

4 Q. And that size truck at that time was a
5 30-yard and not a 40-yard?

6 A. It was a different, it served mostly
7 commercial customers, apartment buildings,
8 restaurants, office buildings. Now, a customer
9 could have that kind of service as well as other
10 types of service.

11 Q. Sure. You testified earlier that a
12 compactor was for basically rubbish, dried waste,
13 paper, wood and the like?

14 A. That is correct.

15 Q. And that you wouldn't intentionally put
16 liquids --

17 A. That is correct.

18 Q. What would happen if you regularly put
19 liquids into a compactor?

20 A. It would run out.

21 Q. And what might happen if those liquids

1 were volatile?

2 A. What would happen to any volatile
3 liquid. It would run out and if somebody lit a
4 match maybe it would go off.

5 Q. Could the compactor itself, from the
6 friction of the compaction, spark a compactor
7 fire?

8 A. I think it is possible.

9 Q. In your experience you haven't heard of
10 those happening?

11 A. There have been fires in the
12 compactors. For what reasons I am not sure.

13 Q. You don't know. But that would greatly
14 increase the likelihood that there would be a
15 compactor fire, if volatile liquids were put in
16 it?

17 A. Possibly.

18 Q. Did you, you identified earlier three
19 employees of Fritz Sauer, Luke Sauer, John, whose
20 last name you didn't know, and Michael Cefaloni,
21 do you recall?

1 A. Yes.

2 Q. To your best of your knowledge, is Luke
3 Sauer an honest person?

4 A. That is a tough question.

5 Q. Gets tougher. Do you know --

6 MS. CASANO: Object, but go ahead.

7 Q. Do you know if Luke Sauer is or is not
8 an honest person?

9 A. I guess he is.

10 Q. You don't know?

11 A. No.

12 Q. Do you know him well enough to know
13 whether he is or is not an honest person?

14 A. I never remember him lying. I think he
15 was capable of embellishing stories to make them
16 bigger than they were, maybe.

17 Q. What about John, John blank? Do you
18 recall conversations with him?

19 A. Not really, no.

20 MS. CASANO: Same objection.

21 Q. Did you know him as well as you knew

1 Luke Sauer?

2 A. No.

3 Q. What about Michael Cefaloni, did you
4 know Michael Cefaloni?

5 A. Yes.

6 MS. MARKS: Same objection.

7 MS. CASANO: Same objection.

8 Q. To the best of your knowledge, was
9 Michael Cefaloni an honest person?

10 A. I don't really think I can testify to
11 that.

12 Q. Do you know of instances where he did
13 not tell the truth?

14 A. No, I don't.

15 Q. Do you know whether Michael Cefaloni
16 ever dumped at Rosedale?

17 A. I assume he did, but I don't know.

18 Q. But you don't know for sure. You
19 described Luke Sauer as someone who embellishes;
20 would you describe Mike Cefaloni in the same way?

21 A. No.

1 Q. Michael Cefaloni did not embellish --

2 A. I really didn't have that much contact
3 with Michael Cefaloni.

4 Q. I believe you testified last time that
5 you had identified Lord Baltimore Press as a
6 facility whose wastes may have gone to Sauer's
7 dump during the window period primarily because
8 of geography, it was close to Sauer's dump; is
9 that correct?

10 A. That is correct.

11 Q. Is there any other basis for your
12 having identified Lord Baltimore Press?

13 A. No.

14 Q. Do you have any personal knowledge that
15 waste from Lord Baltimore Press actually went to
16 Sauer's dump?

17 A. No.

18 Q. I believe you testified earlier that
19 the waste from Lord Baltimore Press was mostly
20 paper waste?

21 A. As I recall it, yes.

1 Q. Do you have any personal knowledge of
2 any waste other than paper waste from Lord
3 Baltimore Press?

4 A. Not that I really recall, no.

5 Q. If waste was taken to Sauer's dump,
6 would it have been taken to the area where Smitty
7 was bulldozing?

8 A. Yes.

9 Q. Okay. Where is the exhibit list?

10 MR. MASUR: Would you read me the last
11 question and the answer.

12 (The record was read by the reporter.)

13 Q. Exhibit 12 is a recap of accounts
14 receivable. It is the exhibit that lists all the
15 companies on it, and does it identify what area,
16 what landfill?

17 A. No, it does not.

18 Q. If waste were taken from these
19 companies, it could have been taken to any of the
20 landfills in the area; is that correct?

21 A. That is correct.

1 MR. BRAGER: I have no further
2 questions.

3 MS. CASANO: I think that means I am
4 next. Why don't we take a five-minute break.

5 (Recess taken.)

6 EXAMINATION BY MR. BRAGER (resumed):

7 Q. We talked a few minutes ago about
8 Michael Cefaloni and I wanted to ask you, I
9 guess, directly, what I didn't ask you before.
10 How much stock would you put in something that
11 Michael Cefaloni told you?

12 A. Probably not a lot.

13 MS. CASANO: Objection, no foundation
14 to that question.

15 MS. MARKS: Objection.

16 Q. Why is that?

17 A. I am not sure Mike was all that stable
18 a person. He could drive a truck.

19 Q. Do you recall whether, what was
20 Mr. Cefaloni's reputation in his community, do
21 you know?

1 MS. MARKS: Objection.

2 A. Not really being a part of the
3 community, I am not sure I could say, but other
4 than, he would be kind of a joke.

5 Q. Kind of a joke. Do you know why that
6 is?

7 A. Just from his basic living habits and
8 he was not a very clean person and did not, I
9 guess did not seem to be all that stable.

10 Q. Do you know if he was ever shot?

11 A. He was shot by his wife.

12 Q. Do you recall any change in his
13 behavior from, or his stability from before he
14 was shot to after he was shot?

15 A. Well, I think it severely affected his
16 health. He was, I think he was out for quite a
17 while with that and he did seem to have quite a
18 lot of problems with it after that.

19 MR. BRAGER: I have no more questions.

20 EXAMINATION BY MS. CASANO:

21 Q. Mr. Tyler, how much contact did you

1 have with Mike Cefaloni?

2 A. Probably not a whole lot, but I would
3 see him around in passing.

4 Q. Would that have been at the Rosedale
5 landfill or at Sauer's landfill or both?

6 A. Either both or at the office if he came
7 by to pick up tickets or maybe get his truck
8 fixed or whatever.

9 Q. When you were at Rosedale, how much of
10 your time, and I am speaking for the period from
11 1965 to the early 1970s, how much of your time
12 was spent in the office where the drivers would
13 come and how much of your time was spent
14 elsewhere at the landfill?

15 A. Probably 75 percent of my time would
16 have been at the, around the office area.

17 Q. Okay. Would most drivers come into the
18 office just to pick up their tickets and drop off
19 their tickets?

20 A. Well, the drivers' changing room was
21 there, the shop where the trucks were repaired

1 was there, so they would be in that whole area.

2 Q. You indicated that you thought that
3 Mr. Cefaloni was not stable. What was that based
4 on?

5 A. Just observation.

6 Q. Of his behavior?

7 A. His behavior.

8 Q. Did Mr. Cefaloni ever lie to you?

9 A. Not that I specifically recall, no.

10 Q. Did you ever hear anyone say that
11 Mr. Cefaloni had lied to Fritz Sauer?

12 A. Not that I recall.

13 Q. Okay.

14 A. I don't think anybody would put a lot
15 of stock in much of what Mike said.

16 Q. In response to some questions by
17 Mr. Brager, you indicated that Robb Tyler,
18 drummed waste that was hauled by Robb Tyler
19 drivers would be emptied into trash at landfills;
20 is that correct?

21 A. That is correct.

1 Q. Okay, why would the drums be emptied as
2 opposed to just being dumped at the landfill?

3 A. That was the policy, just so it would
4 be mixed with the waste.

5 Q. Do you know what was done with the
6 drums after they were emptied?

7 A. I think some were salvaged and sold.

8 Q. I believe you testified earlier in your
9 deposition that there was a gentleman by the name
10 of Sam Grant or The Preacher who salvaged drums
11 at the Rosedale landfill; do I recall your
12 testimony correctly?

13 A. Yes, I am not sure -- Sam Grant
14 salvaged cardboard, scrap, you know, anything
15 that was salvageable, and I don't remember
16 whether or not he salvaged drums, but if there
17 was a market for them or if they hadn't been
18 diverted to some other place, then he probably
19 would have done that also.

20 Q. Did Robb Tyler, Incorporated or any of
21 the associated companies sell drums that had been

1 emptied at the landfills?

2 A. I just don't really recall during this
3 period. At a later time there was a liquid
4 incinerator that operated at Norris Farm and at
5 that time all the drums were saved and resold.

6 Q. When you indicated that it was company
7 policy that the drums be emptied into the trash,
8 were you speaking of Robb Tyler's policy?

9 A. Yes, and company policy is probably not
10 a good choice of words.

11 Q. I am sorry, Robb Tyler meaning your
12 father as opposed to Robb Tyler, Incorporated?

13 A. No.

14 Q. Okay.

15 A. Robb Tyler, Incorporated was what I
16 said, but I say I think that probably was not a
17 good choice of words, it was just the way it was
18 handled.

19 Q. Was that true for all of the landfills
20 with which you were familiar back in the 1960's?

21 A. As far as I remember.

1 Q. Okay. Do you know specifically if that
2 was true at Sauer's landfill?

3 A. I really can't say. I just don't
4 really recall that.

5 Q. Okay. Also, in response to a question
6 by Mr. Brager, you answered unhesitatingly and
7 definitively, I thought, that when waste was
8 taken to Sauer's landfill, it would have been
9 taken to where Smitty was.

10 Why were you, why did you answer yes to
11 that question?

12 A. Because that is the way a landfill
13 would operate. The bulldozer would be operating
14 on the face of the landfill and that is where the
15 waste would go.

16 Q. Well, I believe that you testified on
17 the first day of your deposition that a Sauer
18 employee also operated the bulldozer at Sauer's
19 landfill when Smitty was there; is that correct?

20 A. I think I said I assumed so. I don't
21 really recall definitely, but I think there was

1 other equipment there.

2 Q. Assuming that there was another
3 bulldozer operator besides Smitty working at
4 Sauer's landfill during the window period, as far
5 as you know, then, the waste could have gone
6 either to Smitty or the other bulldozer operator?

7 A. Generally, they would be working in the
8 same area.

9 Q. Okay. Do you know of any special
10 instructions that were given to Tyler drivers
11 during the window period to the effect that Tyler
12 drivers should only take their wastes to Smitty's
13 bulldozer?

14 A. I don't recall that, no.

15 Q. Okay. Larry Jendras testified at his
16 deposition that he did not always dump his loads
17 where Smitty was working at Sauer's landfill. Do
18 you have any reason to dispute that testimony?

19 A. No, I don't.

20 Q. Okay. Mr. Tyler, do you know if your
21 father ever went to Sauer's landfill?

1 A. I am sure he stopped by there.

2 Q. In particular, do you know if your
3 father ever went to Sauer's landfill during the
4 window period?

5 A. I can't say for sure, no.

6 Q. Did you ever see your father at Sauer's
7 landfill?

8 A. Not that I recall.

9 Q. Okay.

10 A. It would not have been a momentous
11 event so --

12 Q. Well, you are not comparing your father
13 to a transformer, are you? Okay.

14 I brought with me a map --

15 A. I will pass.

16 Q. This is a map of Baltimore on one side
17 and the Baltimore metropolitan area on the other
18 side. It is not a map from the 1960s. I am not
19 sure exactly what the copyright date is, but I
20 think it is '89. I think that the general
21 configuration of the Baltimore area and the main

1 streets, though, has not changed significantly,
2 and what I would like you to do, Mr. Tyler, is
3 indicate, using the various colored markers, the
4 locations of the landfills that we have talked
5 about during the course of your deposition.

6 Why don't we start with the Rosedale
7 landfill, which was at 68th and Pulaski Highway,
8 I believe is the address.

9 MR. LUTZ: Is this marked as an exhibit
10 yet?

11 MS. CASANO: I think we will mark it
12 after he has done marking it.

13 MR. LUTZ: Can we establish what the
14 date of this map is?

15 MS. CASANO: There is a copyright date
16 on it somewhere. Off the record a minute.

17 (Discussion off the record.)

18 MR. LUTZ: I think we ought to go on
19 the record. I would appreciate if you would
20 state for the record who the publisher of the map
21 is and if you could find a date.

1 MS. CASANO: This is a map, a Rand
2 McNally map of Baltimore with Metropolitan
3 Baltimore-Washington, D.C. I cannot find a
4 copyright date on the map. I can say that I
5 purchased it during the course of Mr. Cefaloni's
6 deposition so this would have been sometime in
7 1990. Okay?

8 MR. LUTZ: It is a street map, is it
9 not?

10 MS. CASANO: Yes.

11 Q. Mr. Tyler, if you would, then, let's
12 begin with the Rosedale landfill and use blue to
13 indicate on the map where that was located.

14 A. Somewhere in this area.

15 Q. Would you mark RL within the circle you
16 just drew and we will know that means Rosedale
17 landfill.

18 Okay, if you would, then, Mr. Tyler,
19 actually we can initial the circle so we probably
20 don't have to use different colors. If you would
21 indicate the location of Sauer's landfill and

1 mark that SL when you do draw the circle.

2 A. Can't find it here.

3 Q. Here is Monument Street here.

4 MR. BLEICHER: I think the witness is
5 about to testify.

6 MS. CASANO: I am trying to help --

7 MR. LUTZ: Map-reading I.

8 MR. BLEICHER: It may be important that
9 he doesn't know.

10 MS. CASANO: Actually, that is true.

11 A. It would be right in this area, I
12 guess. Yes.

13 Q. Okay, if you would mark that with an SL
14 to indicate where Sauer's landfill was located.

15 The next landfill we have talked about
16 is the Norris Farms landfill.

17 A. Can I turn this over?

18 Q. Sure, you can turn it over.

19 A. Right about here.

20 Q. And if you would put an NF by that
21 circle to indicate where Norris Farms was

1 located.

2 I have a hard time keeping these
3 straight. There is a Patapsco landfill and a
4 Reedbird landfill, which I believe are one and
5 the same, but correct me if I am wrong. I have a
6 hard time keeping these straight, but there is
7 a --

8 A. Well, there was the Reedbird landfill
9 which was the old City landfill.

10 Q. Was that open during the 1960s?

11 A. I think it was, yes.

12 Q. If you would mark the Reedbird
13 landfill?

14 A. It is now called Cherry Hill Park
15 apparently.

16 Q. If you would mark that RB for
17 Reedbird. Now, there was a --

18 MR. BRAGER: You want an L there too
19 like the other ones?

20 MS. CASANO: No.

21 Q. Now, Robb Tyler also had a landfill on

1 Reedbird; is that correct?

2 A. Yes, that was right here.

3 Q. Okay, why don't you mark that one P for
4 Patapsco.

5 A. P for Patapsco?

6 Q. That would be fine. Also we talked
7 about the Quarantine Road landfill. If you would
8 mark that circled with a Q for Quarantine.

9 Okay, we have talked about some county
10 landfills that were opened during the 1960s. I
11 don't recall that we have put names to them,
12 though, but if you could identify the county
13 landfills that you recall as having been open in
14 the '60s.

15 A. One right in here.

16 Q. What was that landfill called?

17 A. I think it was the County landfill.

18 Q. Would you just mark that CTY for county
19 then.

20 Were there any other county landfills
21 that you recall having been open then?

1 A. Texas.

2 Q. The one that you just marked CTY, is
3 that what you have referred to as the Texas
4 landfill?

5 A. No.

6 Q. Okay. If you would --

7 A. It was the Baltimore Highlands or --

8 Q. If you would mark then the location of
9 the Texas landfill.

10 A. It might not even be on this map. I
11 don't think it is on here. It is out here
12 somewhere.

13 Q. That is fine, thank you. If you would
14 put a T in this circle.

15 Now, is the circle that you just marked
16 with a T, does that indicate the location of the
17 Texas landfill or are you just indicating that it
18 is off of the map?

19 A. It is approximately there.

20 Q. Approximately there, okay.

21 You have also mentioned a Bowleys Lane

1 landfill and a Solley Road landfill. Are those
2 landfills that were open during the 1960s?

3 A. I think Solley was a private landfill
4 in the '60s and would not have been used.

5 Q. By Robb Tyler?

6 A. Right.

7 Q. And how about Bowleys Lane?

8 A. That was a City landfill and I don't
9 think that was used either.

10 Q. Okay. Aside from the landfills that
11 you have identified on the map, are there any
12 other landfills that you recall having been used
13 by Robb Tyler during the 1960s?

14 A. Not that I recall, but that does not
15 mean for sure.

16 Q. Okay.

17 MR. GILLAN: Would it be possible for
18 him to mark by arrow where Norris Farm is in
19 relation to the, you know, the front of the map
20 rather than the back. The approximate location
21 off the boundary of the map.

1 Q. Could you mark on the side of the map
2 that shows a more detailed view of Baltimore the
3 direction of the Norris Farm landfill. If you
4 would draw an arrow and NF, that would be
5 sufficient.

6 Thank you.

7 Okay. Also, looking at the Baltimore
8 City side of the map, Mr. Tyler, before you draw
9 a line, could you indicate with your finger
10 how -- we have talked about east, the east side
11 of the city and east Baltimore. If you would
12 indicate what you regard as the east side of the
13 city and the west side and then, depending upon
14 how that line goes, I may ask you to draw a line
15 making that demarcation.

16 A. This is basically the east side and
17 this is the west side.

18 Q. Why don't you draw a line, then.

19 A. Why don't we use Charles Street.

20 Q. That is fine.

21 MS. CASANO: The witness has drawn a

1 blue line.

2 Q. If you could just mark an E on the side
3 that indicates east Baltimore and a W for west
4 Baltimore.

5 MS. CASANO: And the witness has done
6 so. Thank you.

7 MR. LINGAN: Pat, I am not sure what
8 significance that demarcation has other than what
9 we classically here in Baltimore refer to as east
10 and west Baltimore. I am not sure that the
11 question put to him has any relevance to how Robb
12 Tyler differentiated.

13 Q. During the course of your deposition,
14 Mr. Tyler, you had indicated that during the
15 window period it was, I don't remember your exact
16 words but I think it was essentially your
17 testimony that it was more likely that waste from
18 companies located on the east side of Baltimore
19 would have gone to Sauer's landfill.

20 Do I recall your testimony correctly?

21 A. Uh-huh.

1 Q. When you made that statement and you
2 were referring to east Baltimore, were you
3 referring to the area that you indicated on the
4 map by drawing the blue dividing line and the E?

5 A. Not really necessarily, but it was, I
6 mean, obviously the areas around the landfills,
7 you know, would, that is where you would go, but
8 not all the time and in no way by any real rule,
9 other than the dispatchers and the routing
10 supervisors. If it were a truck that had, you
11 know, hundreds of customers and was picking up
12 small containers, they might start him here and
13 route him up over here and he would dump over
14 here and then come back and dump over here. So
15 it is hard to say on, as any rule, other than you
16 try and travel as little distance as possible
17 when you are in the trucking business.

18 Q. Did most of Tyler's customers during
19 the 1960s have the type of container that the
20 driver would go to that customer, pick up one
21 container, only be able to carry that container,

1 have to take to it a landfill, empty it, and then
2 return the container to the customer?

3 A. A number of customers, no.

4 Q. Okay, approximately how many of Tyler's
5 customers during the 1960s would you say had
6 loads that were so small that they were
7 consolidated with other loads before they were
8 taken to the landfill?

9 A. As far as the customer base, probably
10 about 70 percent.

11 Q. So only 30 percent of Tyler's customers
12 had containers that were so large that that
13 container would comprise the entire load for a
14 driver?

15 A. Right. That is what I would think,
16 yes.

17 MR. BRAGER: Can we ask --

18 MR. GILLAN: Can we clarify his
19 statement before that in the instance where
20 customers were getting a mixed load, it was
21 possible for a driver to be routed from the east

1 side over to the west side and then down to the
2 City landfill or whatever this is marked as a P
3 or RB? Was that a fair -- you know, I know he
4 had indicated they went from here to there.

5 Q. You can answer that. Is that a fair
6 characterization of your testimony?

7 A. That is a fair characterization.

8 MR. BRAGER: Now can we just ask the
9 witness to draw the line up Charles Street all
10 the way to the beltway, please. That would be
11 helpful.

12 MR. LUTZ: That is north Baltimore.

13 MR. BLEICHER: And there is a question
14 as to whether the beltway was there at this
15 time.

16 THE WITNESS: It was.

17 MR. BRAGER: But can you just draw the
18 line up.

19 THE WITNESS: It is really not relevant
20 to --

21 MS. CASANO: It is relevant to one of

1 Mr. Brager's clients.

2 Q. Well, if you can, Mr. Tyler, if you
3 would --

4 A. I can certainly draw the line.

5 Q. Sure, but to conform to your
6 recollection and understanding of what you meant
7 by east Baltimore --

8 MR. LAND: I am going to object based
9 on your directing the witness how to testify.

10 MS. CASANO: Why don't we mark it as 16.

11 Q. Before we leave the map, Mr. Tyler, I
12 have one more question. Looking at where you
13 have indicated the Quarantine Road landfill to
14 be, and recognizing that part of the map is
15 obliterated by a map of downtown Baltimore, how,
16 if a driver left what I will call downtown
17 Baltimore to go to the Quarantine Road landfill,
18 what route or routes would a driver use?

19 A. He would probably come down Hanover
20 Street.

21 Q. If you go down Hanover Street do you

1 cross a toll bridge?

2 A. No.

3 Q. Or do you have to go through one of the
4 tunnels?

5 A. No.

6 Q. Thank you.

7 MR. LUTZ: I would like to point out
8 one thing. I see on the map that the Fort
9 McHenry Tunnel is merely proposed on this map by
10 a dotted line. Therefore, that does date the map
11 somewhat.

12 MS. CASANO: I don't recall when that
13 tunnel was constructed; do you know?

14 MR. LUTZ: Several years ago.

15 MR. LAND: Can I ask which tunnels and
16 bridges existed in the 1960s-69 time frame.

17 THE WITNESS: Well, there was the
18 Baltimore Harbor Tunnel, the Hanover Street
19 Bridge. Curtis Creek Bridge here, I am not sure
20 that the beltway ran down there then, I don't
21 think it did. So this was Pennington Avenue and

1 Fort Smallwood Road.

2 Q. Aside from Hanover Street and the
3 Harbor Tunnel, was there any other bridge or
4 tunnel that a driver could use to get to the
5 Quarantine Road landfill?

6 A. No.

7 MS. CASANO: Anybody else have any
8 questions on the map?

9 MR. BRAGER: The driver could go over
10 Russell Street.

11 THE WITNESS: Could go around, sure.
12 Probably went all the way around the beltway and
13 came back.

14 (Whereupon, Tyler Deposition
15 Exhibit No. 16, map with blue annotations by Mr.
16 Tyler, marked.)

17 Q. I believe you testified on your
18 previous day of deposition, Mr. Tyler, that
19 Parker brought fly ash to the Rosedale landfill.

20 A. I am not sure I did. I said he could
21 have but not as a regular --

1 Q. Do you know how Parker was contacted
2 and requested or told to bring fly ash to the
3 landfill?

4 A. I think most of the fly ash, I think,
5 was generated over on the west side and was used
6 at the Patapsco landfill and then Quarantine
7 landfill for cover because there was not a lot of
8 cover material in either one of those landfills.
9 So I don't remember a lot of fly ash being dumped
10 on the east side.

11 Q. Okay. When Parker was contacted for
12 fly ash, for whichever landfill, do you know
13 whether he was contacted by radio or whether that
14 was done by phone or some other means?

15 A. He just, he had a standing, it was sort
16 of a standing order. He would bring it in when
17 he had it.

18 Q. Thank you.

19 At any point during the 1960s or early
20 1970s did you solicit customers on behalf of Robb
21 Tyler?

1 A. Not as a -- maybe an extraordinary
2 circumstance but --

3 Q. Did you ever go to the Western Electric
4 facility on Broening Highway during the 1960s?

5 A. I probably did.

6 Q. Do you recall the names of anyone with
7 whom you would have spoken there?

8 A. No, I don't.

9 Q. Did you ever go to any Baltimore Gas
10 and Electric facilities during the 1960s?

11 A. Not that I recall.

12 Q. Would you recall the names of anyone
13 from Baltimore Gas --

14 A. No.

15 Q. Okay. We have had testimony from
16 several drivers in this case, in particular
17 Lawrence Jendras, Andrew Ragsdale, a gentleman by
18 the name of Bud Cameron, and Michael Cefaloni.
19 To the extent that those gentlemen have testified
20 about what they did, would you have any, do you
21 think that their knowledge of their activities

1 would be better than your knowledge of their
2 activities? .

3 MR. BYRD: Objection.

4 MR. MASUR: Objection.

5 MR. BRAGER: I object to that also.

6 Q. But generally speaking?

7 A. You mean at home or off the clock or --

8 Q. When they were working, when they were
9 working.

10 A. I would assume that they would have a
11 better recollection of where they were since I
12 was not with them.

13 Q. Earlier in your deposition we talked
14 about the respective merits of fly ash and dirt
15 and construction debris and incinerator ash as
16 cover material. Could you tell us which of those
17 materials was more available for use as cover?

18 MR. MASUR: At which facility?

19 Q. At Rosedale, for example.

20 A. Incinerator ash.

21 Q. Do you know which of those materials

1 was more available at Sauer's landfill?

2 A. I think it was mostly dirt.

3 Q. Okay. Do you know where the dirt came
4 from that they used for cover at Sauer's
5 landfill?

6 A. I assume it was either dug up on site
7 or brought in by truck.

8 Q. Did you ever have any conversations
9 with anyone concerning a plan to fill in and
10 level the property where Sauer's landfill was
11 located?

12 A. You got to be more specific.

13 Q. Did you ever have any conversations
14 with Albert Landay, for example, concerning his
15 plans for the property?

16 A. Not that I recall.

17 Q. During the previous part of your
18 testimony, you indicated that you went to Sauer's
19 landfill but you couldn't recall specifically why
20 you had gone there. During the break between the
21 first day of your testimony and today, I went

1 back through other deposition transcripts to see
2 what other witnesses had said and found that
3 Louis Sauer had testified at page 166 of his
4 transcript -- that means nothing to you, I am
5 sure -- essentially that Allie would come to
6 Sauer's landfill and see how the trucks were
7 doing, check on Mr. Smith, and away you would
8 go.

9 Edgar Smith also gave essentially the
10 same testimony during his deposition, and that is
11 at pages 82 and 83 of the Smith transcript.

12 Does that, do my summations of that
13 testimony refresh your recollection as to why you
14 went to Sauer's landfill?

15 A. It would have been normal to have
16 stopped in if our trucks were dumping there and
17 our equipment was there, to stop in and see what
18 was going on.

19 Q. Was that something that you would have
20 done on your, or that you did on your own
21 initiative or was that something that you were

1 asked to do by your father or --

2 A. It was something I would have done
3 because, I think that is my own initiative, yes.

4 Q. I am going to direct your attention to
5 Exhibit 8 which is the list of personnel from
6 Robb Tyler that is dated, I believe it is May of
7 1970. Exhibit 8 indicates that your title as of
8 May, 1970 was general manager of truck shop and
9 landfill operations.

10 Do you recall whether that was your
11 title in 1969?

12 A. I don't recall. Like I said, I think
13 titles were not an important part of the way our
14 business was run.

15 Q. When Exhibit 8 talks about landfill
16 operations, do you know whether, is that a
17 reference specifically to the Rosedale or Norris
18 Farm landfill, or were you regarded as being in
19 charge of all Tyler's landfills?

20 A. Probably at that point, all. 1970.

21 Q. Okay. Do you know if that, do you

1 recall if that was the case in 1969?

2 A. I really don't, because there was
3 another man and I can't remember when he left,
4 and I sort of filled in after he left and I don't
5 remember when he left.

6 Q. Do you recall the name, was that Paul
7 Galarineau?

8 A. Paul Galarineau.

9 Q. Mr. Sauer and Mr. Smith also both
10 testified at the pages of their transcripts that
11 I have indicated that it was their recollection
12 that you came to Sauer's landfill once or twice a
13 week during the window period. Does that refresh
14 your recollection as to the frequency with
15 which --

16 A. I think that is what I said. I just
17 don't remember.

18 Q. Mr. Tyler, do you know what this
19 litigation is about?

20 A. I think I do.

21 Q. Do you understand the claims that have

1 been made by the various parties against each
2 other?

3 A. I have not spent a lot of time on it,
4 no.

5 Q. Do you know or understand that the
6 United States and the State of Maryland, for
7 example, are claiming that Browning-Ferris is
8 liable for the cost of cleaning up Sauer's
9 landfill or the Kane and Lombard superfund site
10 as it is otherwise known?

11 A. Solely?

12 Q. No, no, but that they are one of a
13 number of parties?

14 A. Yes.

15 Q. Okay. Do you understand the
16 significance of establishing where dumping
17 occurred at Sauer's landfill with respect to what
18 is now Lombard Street?

19 A. Yes.

20 Q. What is your understanding of the
21 significance of that?

1 A. I would assume that part of it is the
2 superfund site or the cleanup area, and part of
3 it is a parking lot or something.

4 Q. Is it your understanding, then, that if
5 it is shown that dumping occurred only north of
6 what is now Lombard Street, that that is not part
7 of the superfund site and therefore
8 Browning-Ferris, for example, would not be liable
9 for the cost of cleaning up the superfund site?

10 A. Generally, yes.

11 Q. Have you had any conversations with
12 your father involving whether or not your father
13 has any personal liability for the cost of
14 cleaning up this superfund site?

15 A. Probably.

16 Q. Has your father expressed any concern
17 to you that he might personally be liable?

18 A. No, he --

19 Q. Have you had a concern that you
20 yourself might be personally liable for the cost
21 of cleaning up this superfund site?

1 A. No, I haven't.

2 Q. Without divulging any conversations
3 with your counsel, can you tell us whether you
4 ever considered being represented by counsel for
5 Browning-Ferris in connection with this
6 litigation and in particular in connection with
7 your deposition?

8 A. I don't follow you.

9 Q. Did you personally ever consider
10 whether counsel for Browning-Ferris would
11 represent you in connection be your deposition,
12 for example, as opposed to getting your own
13 attorney?

14 MR. LUTZ: Objection.

15 MR. JUSTIS: I object to that, too.

16 MR. LUTZ: Asking for a legal
17 conclusion.

18 A. I didn't work for Browning-Ferris when
19 this came up.

20 Q. I take it that you did not
21 affirmatively decide not to have counsel for

1 Browning-Ferris represent you; is that correct?

2 A. That is correct.

3 Q. Your earlier testimony, Mr. Tyler, I
4 believe indicates that when a customer first
5 became a customer of Robb Tyler, typically the
6 dispatcher would decide which landfill the
7 customer's wastes would be taken to; is that
8 correct?

9 A. I guess it would be a day-to-day
10 decision.

11 Q. Was that a decision that typically
12 would be made by the dispatcher?

13 A. The dispatcher. Maybe the driver would
14 say I have got another stop somewhere else, I
15 will dump this one at Quarantine and then I can
16 go to -- you know.

17 Q. To your knowledge, though, the customer
18 didn't select the landfill; is that correct?

19 A. As far as I remember, no. Unless they
20 were hauling their own waste.

21 Q. I am going to direct your attention to

1 Exhibit 7 which is the letter from an
2 investigator for the City of Baltimore to the
3 chief assistant solicitor, and directing your
4 attention to page 2 of Exhibit 7, paragraph 8, if
5 you would read that paragraph, please.

6 A. Okay.

7 Q. When I asked you about that paragraph
8 during the first day of your deposition,
9 Mr. Tyler, you indicated that you did not recall
10 the conversation that is reported in that
11 paragraph. Is that still the case?

12 A. I really don't recall.

13 Q. Okay. Are you able to definitively say
14 that you did not have such a conversation with
15 Mr. Wroten, I believe his name is?

16 A. I can't say that I did or I didn't.

17 Q. Do you recall whether back in 1980, do
18 you know whether your father had any
19 conversations with Mr. Wroten or anyone else from
20 the City concerning Sauer's landfill?

21 A. I don't recall.

1 Q. Assuming that the conversation that is
2 reported in Exhibit 8 took place, that
3 conversation, that exhibit indicates that you
4 said that Tyler's drivers dumped throughout the
5 area where Bayview Avenue is being constructed.

6 Directing your attention to Exhibit
7 6-A, you indicated that it was your recollection
8 that dumping occurred in the area that is
9 indicated by a circle on Exhibit A, and that area
10 is located entirely to the north of Lombard
11 Street.

12 Again, assuming that Mr. Wroten
13 accurately reported his conversation with you,
14 can you explain why you now believe that dumping
15 occurred, at least when you saw it, dumping was
16 going on north of Lombard Street as opposed to
17 throughout the area where Bayview Avenue, now
18 Lombard Street, was being constructed?

19 A. I don't recall the conversation. I
20 don't recall him showing me a map or anything
21 other than saying Bayview, and I always think of

1 Bayview as down here where the Bayview Yards --

2 Q. Did you see Bayview Avenue, now known
3 as Lombard Street, when it was being
4 constructed?

5 A. Not that I specifically remember. I
6 drove by, I am sure, but I didn't pay any
7 attention to it.

8 Q. At the time that Bayview Avenue was
9 constructed, you were still working for Robb
10 Tyler; is that correct?

11 A. I think so. When was it constructed?

12 Q. It was in the '70s but I am not sure, I
13 think '72 or '73, I don't remember the exact
14 date.

15 MR. MASUR: Bayview Avenue was built in
16 '74. The sewer was put in, I think, in '70-'71.

17 Q. Okay. During the period from 1970 to
18 1975, were you still working at Robb Tyler's
19 offices off Pulaski Highway?

20 A. I think until about '73 or '74.

21 Q. Since you were working at that

1 location, would you have had occasion to pass the
2 Sauer's landfill property relatively frequently,
3 would you say?

4 A. I just don't recall. If I was going
5 down to Norris Farm I would have gone down North
6 Point Boulevard.

7 Q. During the 1960s when you were employed
8 by Robb Tyler, did you ever ride with any of the
9 drivers to any of their pickups?

10 A. Probably.

11 Q. Do you recall ever -- I already asked
12 you if you visited Western Electric on Broening
13 Highway, didn't I?

14 A. (Indicating.)

15 Q. Okay. Excuse me one minute.

16 You have been asked a number of
17 questions about whether particular customers,
18 companies were customers of Robb Tyler -- let me
19 start over again.

20 You have been asked a number of
21 questions concerning whether particular companies

1 were customers of Robb Tyler during the 1960s and
2 in particular if they were customers during the
3 window period. For most companies you have
4 indicated that you believe they were or were not
5 customers during the 1960s, but you can't recall
6 specific dates that they were customers.

7 Is there anyone or anything that hasn't
8 been shown to you during the course of your
9 deposition or mentioned to you during the course
10 of your deposition that you think might jog your
11 recollection as to specific customers?

12 A. No.

13 Q. Okay. There is nothing that you can
14 think of that we might be able to do that we
15 haven't done that would help refresh your
16 recollection?

17 A. The answer is still no.

18 Q. Okay, well, let me ask you one other
19 silly question. Is there anything that has
20 occurred to you during the course of your
21 deposition, boy, if only they had asked me this

1 question?

2 A. No.

3 MR. LUTZ: I am going to have to object
4 to that but go ahead.

5 Q. That hasn't occurred to you, okay.

6 You are chairman of Enviro-Gro
7 currently, is that correct, Mr. Tyler, or
8 president?

9 A. President, chief executive.

10 Q. How long have you been in that
11 position?

12 A. Really about two years in that
13 position.

14 Q. Were you the founder of Enviro-Gro?

15 A. Yes, one of them.

16 Q. Would you say that Enviro-Gro is a
17 successful corporation?

18 A. Yes, I would.

19 Q. And when you left Browning-Ferris, you
20 were a vice-president, I believe, of
21 Browning-Ferris?

1 A. That is correct.

2 Q. Going back to the various landfills
3 that were in use by Robb Tyler drivers during the
4 1960s, at one point in your testimony you were
5 being examined by Mr. Byrd from Baltimore Gas and
6 Electric and you indicated that you might have
7 been, you might have confused Patapsco and
8 Quarantine, the Patapsco and Quarantine landfills
9 during the course of your testimony. I would
10 just like to clarify.

11 Is it your recollection that Quarantine
12 was open during the window period when the, after
13 Rosedale closed and before Norris Farm opened?

14 A. Yes.

15 Q. Is it your recollection that Patapsco
16 also was open during that period?

17 A. No, I think it was closed. That is
18 where I was just confused, as to the time, and
19 then the more we talked, I seemed to remember
20 that we opened Quarantine Road prior to Norris
21 Farm.

1 Q. Okay. I understand from Warren Rich
2 that your father spends summers in Maine and goes
3 down to Florida for the winter; is that correct?

4 A. No.

5 Q. Okay. Is your father presently in
6 Baltimore?

7 A. I think he is in Baltimore right now.

8 Q. Do you know if he is going to be in
9 Baltimore for the foreseeable future?

10 A. He will probably go to either Florida
11 or the Turks and Caicos Islands shortly.

12 Q. Is that something he does every year?

13 A. Yes.

14 Q. Is that for the winter months?

15 A. Yes.

16 Q. Is your father active in any business --

17 A. No, he is not.

18 Q. -- at this time? Okay.

19 MS. CASANO: I think I only have a
20 couple more questions.

21 Q. Do you recall, when you went to Western

1 Electric's Broening Highway facility, can you
2 recall whether you saw the locations where wastes
3 were picked up back then?

4 A. I am sure I did.

5 Q. Do you recall where those locations
6 were?

7 A. No, I do not.

8 Q. Are you currently receiving any type of
9 pension or other financial benefit from
10 Browning-Ferris?

11 A. I own stock, regrettably.

12 MS. CASANO: I have no further
13 questions.

14 MS. MARKS: I have a few questions,
15 Mr. Tyler.

16 EXAMINATION BY MS. MARKS:

17 Q. Let me start with a quick follow- up.
18 How much stock do you own in Browning-Ferris?

19 A. Maybe 125,000 shares, 130,000 shares.

20 Q. And is that owned by you individually?

21 A. Some individually, some by my children,

1 I guess some by a corporation that I own.

2 Q. So that figure you gave me, was that
3 the total of all of these different types of
4 ownership?

5 A. That would be.

6 Q. How about your father, does your father
7 own any stock in Browning-Ferris?

8 A. He still might. I am not sure.

9 Q. Do you have any idea how much he owns
10 if he still holds it?

11 A. No, I don't.

12 Q. Is there anybody else in your family
13 that owns stock in BFI that wasn't included in
14 that original number?

15 A. No. I know my sister has some, I
16 really don't know.

17 Q. Your sister might have some?

18 A. Uh-huh.

19 Q. Who is that, what is her name?

20 A. Mary Doub, D-O-U-B.

21 Q. And you believe she may have stock in

1 Browning-Ferris as well?

2 A. She could. I have no idea.

3 Q. You stated that you aren't currently
4 receiving any pension or any kind of financial
5 benefits from Browning-Ferris; is that correct?

6 A. That is correct.

7 Q. Do you have any future benefits that
8 you would be receiving?

9 A. I probably have something in a pension
10 fund. I really don't know what it is.

11 Q. Do you have any idea what it might be?

12 A. Absolutely none.

13 Q. Is your father --

14 A. I would like to find out.

15 Q. Fair enough. Is your father currently
16 receiving anything?

17 A. No. No, he has, because he still owns
18 the property that they lease on Pulaski Highway
19 for the shop.

20 Q. He still owns the, he still owns which
21 property?

1 A. Where the office is, where the local
2 office for Browning-Ferris is.

3 Q. On Pulaski Highway?

4 A. Yes.

5 Q. And he leases that to Browning-Ferris?

6 A. That is correct.

7 Q. So he receives a regular income from
8 Browning-Ferris; is that right?

9 A. They do pay him to lease it, yes.

10 Q. And is this his only ongoing business
11 relationship with Browning-Ferris?

12 A. Yes.

13 Q. I believe you stated in your earlier
14 testimony, and please tell me if this is correct,
15 that you don't remember whether or not there was
16 another dozer operator at Sauer's dump during the
17 time that Smitty operated there; is that correct?

18 A. That is correct. I assume there was
19 but I can't specifically recall.

20 Q. You don't really remember at all; is
21 that right?

1 A. That is correct.

2 Q. So you don't know whether Smitty and
3 this other operator worked in the same area; is
4 that right?

5 A. That is what I am saying. If he was
6 there they would have worked together. That is,
7 once again, my assumption.

8 Q. But you don't remember whether or not
9 it was, that was actually the case; is that
10 right?

11 A. That is right.

12 Q. And is it possible that there was
13 another dozer operator working in another portion
14 of the site?

15 A. I guess anything is possible. You
16 know, I just don't recall.

17 Q. Do you know how Smitty determined where
18 he was going to be operating the dozer at the
19 site?

20 A. Once again, I would assume under the
21 direction of Fred Sauer.

1 Q. Mr. Tyler, are you familiar with how
2 somebody becomes liable for wastes that were
3 dumped in the superfund site?

4 A. Vaguely, yes.

5 Q. Do you understand specifically, do you
6 think, how somebody becomes liable?

7 A. As an owner of the waste. As a
8 transporter of the waste.

9 Q. Now, I am going to ask you a question.
10 I am asking you, it is similar to what Ms. Casano
11 just asked you, but I am asking you to understand
12 your frame of mind rather than to try to pin you
13 down as to liability or get some sort of
14 admission from you.

15 I am asking you whether it has ever
16 crossed your mind in the course of, since this
17 litigation started that you or your father could
18 conceivably become liable in this case for the
19 Kane and Lombard superfund site.

20 MR. LUTZ: Objection. You can answer.

21 A. Originally I did, yes.

1 Q. So it has --

2 A. Just because of the way the superfund
3 laws are structured and what I knew about them at
4 the time.

5 Q. So it did cross your mind --

6 A. I would say it crossed my mind.

7 Q. So does that modify your earlier
8 testimony to Ms. Casano that it was a concern, I
9 am not sure exactly how that was phrased earlier
10 so let me --

11 A. Would you ask me --

12 Q. Let me ask you again.

13 Has it from time to time been a concern
14 of yours that you could conceivably be held
15 liable in this litigation?

16 A. I would say there would be concern
17 whenever you are involved in a superfund site.

18 Q. So is the answer yes?

19 A. So concern and, various degrees of
20 concern, yes.

21 Q. And has there ever been, have you ever

1 been concerned that your father might become
2 liable somehow in this litigation?

3 A. I guess the same concern.

4 MS. MARKS: I don't have any more
5 questions. Thank you.

6 Can I ask one more question.

7 EXAMINATION BY MS. MARKS (resumed):

8 Q. Just one more question, Mr. Tyler.
9 When is your father going to be leaving town? Do
10 you know?

11 A. No, I don't.

12 MR. BRAGER: About 20 minutes.

13 MR. LUTZ: Now ten minutes.

14 Q. Do you know when he normally leaves
15 town for the winter?

16 A. Whenever he feels like it. There is no
17 normal time.

18 Q. And you don't know what his plans are?

19 A. I really don't.

20 MS. MARKS: Thank you. That is all.

21 EXAMINATION BY MR. LAND:

1 Q. Mr. Tyler, my name is Brian Land. I am
2 from the same office as Mark Grummer and I
3 represent General Motors in this matter.

4 MR. LUTZ: Let me just say one thing
5 for the record. Mr. Grummer has already
6 extensively examined Mr. Tyler. To the extent
7 that detail you are going to be repetitious or go
8 into things that Mr. Grummer has already gone
9 into in detail, I am not going to allow my client
10 to testify. I would consider it badgering.

11 MR. LAND: Okay, I will take that into
12 account. I don't think I have that much
13 material.

14 MS. DOANE: Would you please speak up.

15 MR. LAND: The first thing I would like
16 to do is have the reporter mark an exhibit. I
17 believe we are at Exhibit 17.

18 (Whereupon, Tyler Deposition
19 Exhibit No. 17, letter of September 4, 1990 and
20 attachment, marked.)

21 Q. Mr. Tyler, can you take a look at

1 Exhibit No. 17. This is a letter dated September
2 4, 1990 to Warren K. Rich from Mark E. Grummer,
3 the letter is two pages long and has an
4 attachment. It is entitled Instructions. Why
5 don't you take a minute to look at that.

6 MR. MASUR: I am going to object to the
7 exhibit on the grounds of foundation as well as
8 on the grounds that the information reported in
9 here is hearsay.

10 MS. DOANE: I would like to object
11 also.

12 MR. BRAGER: Just to supplement your
13 objection, the exhibit itself is hearsay as
14 well.

15 Q. Mr. Tyler, have you seen this letter
16 before?

17 A. Probably, but I don't specifically
18 recall it.

19 Q. Was Warren K. Rich your attorney on
20 September 4, 1990?

21 A. Yes, he was.

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1 Q. I want to refer you to the third page
2 of the letter, the attachment that is labeled
3 Instructions. The letter indicates these were
4 instructions that were given to Warren K. Rich to
5 be given to you when you reviewed the Robb Tyler
6 customer list. The instructions read as
7 follows:

8 Mark the accounts receivable list as
9 follows: X means more likely than not this
10 company's wastes went to Sauer's dump during the
11 summer of 1969, quote, interim, unquote, period.
12 XX means more likely than not some of this
13 company's wastes also went to Sauer's dump at
14 some time other than the interim period. In
15 parentheses, this includes direct hauling by the
16 company, subcontract hauling for Robb Tyler by
17 Sauer's employees, hauling by Bohager, Modern,
18 Herbert Robinson, Parker, et cetera, and any
19 other means.

20 Do you recall if you followed these
21 instructions when you marked up the Robb Tyler,

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1 Inc. customer list?

2 A. I probably did.

3 MS. DOANE: Could you please read the
4 witness' answer.

5 (The record was read by the reporter.)

6 MR. LAND: I would now like to have
7 another exhibit marked.

8 (Whereupon, Tyler Deposition
9 Exhibit No. 18, letter dated October 2, 1987,
10 marked.)

11 Q. Mr. Tyler, I have had what has been
12 marked as Exhibit 18 placed in front of you.
13 This is a letter dated October 2, 1987 to
14 Ms. Sharon Feldstein at the U.S. Environmental
15 Protection Agency from Alfred Tyler, 2nd.

16 Have you seen this letter before?

17 A. Yes, I have.

18 Q. What is this letter?

19 MR. LUTZ: Objection. You want to be a
20 little more specific.

21 A. It is pretty obvious, I --

1 MR. LUTZ: The letter speaks for
2 itself.

3 Q. What caused you to write this letter?

4 A. I guess I was contacted by EPA. I
5 don't remember specifically this letter, but --

6 Q. As best you can remember, this is a
7 letter you wrote in response to a contact by EPA?

8 A. I would guess, yes.

9 Q. Is everything that you wrote in the
10 letter true? Is there anything you would want to
11 change?

12 A. No.

13 Q. Let me just ask you about a couple
14 sentences in the letter. If you look at the
15 first sentence of the third paragraph, you wrote,
16 "To our best recollection, the Kane and Lombard
17 landfill was used by Robb Tyler, Inc. during the
18 1960s for the disposal of industrial/commercial
19 wastes."

20 When you said the Kane and Lombard
21 landfill, is that the same as the Sauer's dump?

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1 A. Yes.

2 Q. Looking at the last sentence of that
3 same paragraph, you wrote, "Nevertheless, we
4 would have to believe that material now
5 considered hazardous could have been involved."

6 You said could have been involved; were
7 you referring to disposal at the Kane and Lombard
8 landfill or Sauer's dump?

9 A. That we would have hauled material that
10 at that time would have been general trash, which
11 would now be considered a hazardous substance,
12 whether it be an aerosol can or whatever, in the
13 trash, and if that were in fact dumped at the
14 Sauer's dump, then it would have been involved.

15 Q. Let me just ask you a couple more
16 questions about your father.

17 You indicated at the last session of
18 your deposition on November 20 that your father
19 is close to 83 years old and that, quote,
20 sometimes he is in very good health and other
21 times not so good, unquote.

1 Can you elaborate more what you meant
2 by that.

3 A. He has had some coronary artery
4 problems.

5 Q. Does his condition vary day to day or
6 is it because he was under treatment in the past
7 and now has recovered that you made that
8 statement?

9 A. It has varied over the last few years,
10 yes.

11 Q. How would you describe his health
12 today?

13 A. I would say he is in fair health.

14 Q. Let me refer you now to Exhibit 12
15 which is titled Recap, Accounts Receivable and on
16 the first page of this exhibit, the first full
17 line reads, pages 1 to 54, accounts with
18 delinquent items, and there is a date, says,
19 4/6/70, and there is a total, \$161,093.37.

20 The second line reads: Pages 55 to 92,
21 accounts without delinquent items, 4/6/70,

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1 \$205,169.90.

2 Based on my review of this document, I
3 think there is a typographical error on this
4 first page and that those two entries are
5 reversed. I wanted you to also take a look at
6 this and tell me whether you agree with me. If
7 we turn to page 54 which is supposed to have the
8 total of 161,000 and some-odd, \$161,093.37, you
9 see that the total on page 54 is \$205,169.90, and
10 similarly, the total on page 92, which is
11 supposed to be that \$205,000 figure --

12 MR. BRAGER: Brian, have you added up
13 the numbers, I mean, do you know which one is
14 wrong and which one is right?

15 MR. BLEICHER: He is saying they are
16 reversed.

17 MR. BRAGER: Well, but which one is
18 reversed? They could go either way. That is --

19 A. -- that total is \$161,093.37. So does
20 it seem to you that these two entries have been
21 reversed and that pages 1 to 54 actually contain

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1 accounts without delinquent items totaling
2 \$205,169.90, and pages 55 to 92 contain accounts
3 with delinquent items totaling \$161,093.37?

4 MR. GILLAN: I am going to object. It
5 is all speculation. He testified last time he
6 didn't prepare this list.

7 Q. The question is, does it appear to you
8 that these two entries have been reversed on this
9 recap page?

10 MR. LUTZ: Objection.

11 MS. DOANE: Objection as to form.

12 A. I really have no knowledge as to who
13 produced this. It was either produced as part of
14 the sale of the company or whatever, and I just,
15 I really don't know what it all means, what it is
16 all for. That is not a normal operating
17 statement that we used.

18 Q. Mr. Tyler, I would like you to take a
19 look at pages 32 and 33 of Exhibit 12. If you
20 look toward the middle, toward the bottom of page
21 32 and following on to page 33, I count what

1 appear to be 29 entries for Modern Trashmoval.
2 Do you know why there are so many entries for
3 Modern Trashmoval on this list?

4 MS. DOANE: Objection as to form.

5 A. I really don't. It could have been
6 stops that were subcontracted, because that did
7 happen from time to time. Could have been
8 landfill accounts.

9 MR. MASUR: I am sorry, could have been
10 what?

11 THE WITNESS: Landfill accounts.

12 A. I have no idea.

13 Q. So those two possibilities, can you
14 explain to me what each of those means.

15 MS. DOANE: Objection as to form.
16 Calls for speculation.

17 A. If it were a subcontract, it could have
18 been an account that for whatever reason was
19 subcontracted from Modern Trashmoval to Robb
20 Tyler, Inc.

21 Q. And that means that Robb Tyler was

1 actually picking up from a Modern customer?

2 A. Right. Or it could have been, you
3 know, landfill accounting. I am just not
4 familiar with these documents, so I really
5 can't --

6 Q. If it were a landfill account would
7 that mean that Modern was bringing trash into one
8 of the Robb Tyler landfills?

9 A. That is correct.

10 Q. From this list you are not able to
11 distinguish between those two activities?

12 A. I am not.

13 Q. Are there any other services that Robb
14 Tyler would have, Robb Tyler, Incorporated would
15 have been providing for Modern Trashmoval other
16 than the two that you just mentioned?

17 A. Not that I recall right now.

18 Q. Did Modern Trashmoval have its own
19 landfills?

20 A. No, it did not.

21 MS. DOANE: Objection as to form.

1 Q. Did Modern Trashmoval usually use Robb
2 Tyler's landfills for disposal?

3 MS. DOANE: Objection as to form.

4 A. Either Robb Tyler landfills, City
5 landfills, county landfills. I think at some
6 point, I am not sure when, they did have their
7 own landfill but it was fairly far away.

8 Q. Did they have a landfill in eastern
9 Baltimore at any time?

10 MS. DOANE: Objection as to form.

11 A. I don't remember, no.

12 Q. Did Modern use Rosedale?

13 MS. DOANE: Objection as to form.

14 A. They could have.

15 Q. Did Modern use Norris Farm?

16 A. Yes.

17 MS. DOANE: Objection as to form.

18 Q. Do you know if Modern ever hauled into
19 Sauer's dump during that 1969 interval?

20 A. I just don't know.

21 Q. Let me refer you to Exhibit No. 11

1 which I think you have seen before. At the top
2 of that it talks about Modern having a discount,
3 I believe this refers to Modern bringing waste
4 into one of the Robb Tyler landfills; is that
5 correct?

6 A. That is correct.

7 Q. Were there any other haulers other than
8 Modern that got such a discount from Robb Tyler?

9 A. I think Herb Robertson, probably
10 Bohager also.

11 Q. Were there any other landfills other
12 than the Robb Tyler landfills that would have
13 given Modern a discount?

14 MS. DOANE: Objection.

15 Q. For instance, would the Baltimore City
16 landfills have given a discount?

17 MS. DOANE: Objection.

18 A. I have no idea.

19 Q. Do you know why Robb Tyler,
20 Incorporated gave a discount to Modern?

21 A. Because both Modern and Bohager and

1 Herb Robertson and probably some other haulers at
2 the time helped Robb Tyler, Inc. in getting
3 Norris Farm landfill open. It was an issue that
4 was vital to all the haulers and in return for
5 that, and also for the fact that they were a
6 large customer and therefore would get a volume
7 discount, those would be the reasons.

8 Q. Do you recall whether Modern received a
9 discount for dumping at the Rosedale landfill?

10 A. I don't recall.

11 Q. Did Modern have customers in eastern
12 Baltimore?

13 MS. DOANE: Objection as to form.

14 A. I am sure they did.

15 MS. DOANE: Would you please read the
16 witness' answer.

17 (The record was read by the reporter.)

18 Q. Do you recall what landfills Modern
19 would have used for its customers in eastern
20 Baltimore?

21 MS. DOANE: Objection as to form.

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1 A. At that time I really don't, no.

2 Q. Do you recall whether they used
3 Rosedale when Rosedale was open?

4 MS. DOANE: Objection.

5 A. I would think that they did, but I --

6 Q. And based on this document, it appears
7 that they used Norris Farms once Norris Farms
8 opened?

9 A. That is correct.

10 Q. Can you give me an indication what
11 volume or what percentage of wastes coming into
12 Rosedale, Norris Farms were from Modern
13 customers?

14 A. No, I can't.

15 Q. You had testified earlier, and then
16 again today when you were looking at the map,
17 that you thought that the Quarantine landfill may
18 have been open during that 1969 interval after
19 Rosedale closed and before Norris Farms opened;
20 is that correct?

21 A. That is correct.

1 Q. Was that landfill owned by Robb Tyler,
2 Inc.

3 A. No, it wasn't.

4 Q. Was it owned by the City of Baltimore?

5 A. No.

6 Q. Do you recall who owned the landfill?

7 A. It was, part of it was owned by DuPont,
8 part of it was owned by the B&O Railroad, and
9 part of it, I think, might have been owned by
10 SCM, or at some time during that period SCM
11 bought the DuPont property.

12 Q. If I wanted to learn the exact date
13 that landfill opened, where would you suggest
14 that I go to look for records? For instance,
15 would any of these companies have kept records at
16 the time the landfill opened?

17 MR. LUTZ: Objection.

18 A. You can ask them.

19 Q. Would there have been a permit that
20 would have had to have been applied for to open
21 the landfill?

1 A. There probably would have been a City
2 permit.

3 Q. That landfill was in the City of
4 Baltimore as opposed to Baltimore County?

5 A. That is correct.

6 Q. Let me refer you back to Exhibit 12 one
7 last time and I want to ask you about some of the
8 companies that appear on this list. I have
9 already asked you about Modern. I want to ask
10 you about a company that is on page 18 toward the
11 bottom of the page, George P. Garrett and Sons.
12 What type of business was that?

13 A. I am really not sure. They were just
14 an old-line company in Baltimore.

15 Q. Do you recall how long they were a
16 customer of Robb Tyler's?

17 A. I really don't.

18 Q. You don't know how far before March of
19 1970 they were a customer?

20 A. No, I can't tell you that.

21 Q. Do you know where they were located?

1 A. No, I don't.

2 Q. On page 59 in the middle of the page
3 there are several entries for Frank P. Bohager.
4 You had said before that Bohager received the
5 same type of discount as Modern?

6 A. I think so, yes.

7 Q. So Bohager was a waste hauler?

8 A. That is correct.

9 Q. Do you recall whether Bohager was
10 paying Robb Tyler so it could bring waste into
11 the Robb Tyler landfills, or was it paying Robb
12 Tyler because Robb Tyler was picking up from
13 Bohager customers?

14 A. I don't recall.

15 Q. Do you recall where Bohager's customers
16 were located?

17 A. No, I don't.

18 Q. Did they have customers in eastern
19 Baltimore?

20 A. I guess.

21 Q. Do you recall whether Bohager used the

1 Rosedale landfill?

2 A. I really don't.

3 MS. DOANE: Objection.

4 Q. Do you recall any bad feelings between
5 Bohager and Sauer?

6 MR. LUTZ: Objection. You have to
7 establish a foundation.

8 A. Bohager Company was prone to cutting
9 prices so they weren't always as well accepted.
10 So there might have been a problem there with
11 Sauer, I don't know.

12 Q. Let me ask you about a company on page
13 69, it is listed as Kaiser Aluminum and Chem. Do
14 you recall what the full name of that company
15 was?

16 A. No, I don't.

17 Q. Do you recall where the company was
18 located?

19 A. No, I don't.

20 Q. Do you recall what kind of operations
21 the company conducted?

1 A. No, I don't.

2 Q. Do you recall anything about their
3 wastes?

4 A. I really don't.

5 Q. Let me refer you to page 70. In the
6 middle of the page there are several entries for
7 a company called Koppers Company and some are
8 listed as Koppers Company, Inc. Do you recall
9 where that company was located?

10 A. Koppers had quite a few locations.

11 Q. What kind of business was that company
12 in?

13 A. They were in several businesses.

14 Q. Which can you recall?

15 A. Heavy manufacturing.

16 Q. What type of products?

17 A. It was piston ring manufacturing, they
18 had a plant out in Glen Arm that made machinery.
19 They had some other plants.

20 Q. Do you recall anything specifically
21 about their wastes?

1 A. No, I don't.

2 Q. Do you recall whether they had any
3 liquid wastes?

4 A. Probably did, but I just don't
5 remember.

6 Q. Did they have locations in eastern
7 Baltimore?

8 A. I don't think so. I think they were
9 mostly in the Russell Street area.

10 MS. CASANO: If I may, both of your
11 voices are really starting to drop. If you could
12 increase the volume a little bit, please.

13 Q. Do you recall whether any waste from
14 Koppers was brought into the Rosedale landfill?

15 A. I just don't recall now.

16 Q. Do you recall where the wastes from
17 Koppers would have been taken during the 1969
18 interval?

19 MS. DOANE: Objection.

20 A. Once again, I really don't recall.

21 Q. Turning to page 75, there are a couple

1 entries for Moore's Esso Service Center. Do you
2 recall where that business was located?

3 A. No idea.

4 Q. Let me ask you again, do you have any
5 idea why there are so many entries for Moore's
6 Esso Service Center?

7 A. As I have testified, I really don't
8 know what these documents were generated for. It
9 could be that those were just repetitions because
10 they hadn't paid and, you know, if you had a
11 little better documentation, maybe I could help
12 you.

13 Q. Turning to page 80, there are several
14 entries for Herbert C. Robertson. Is that a
15 waste hauling company?

16 A. That is a waste hauling company.

17 Q. Did they bring wastes into the Robb
18 Tyler landfills?

19 A. They would have, yes.

20 Q. Did they bring wastes into the Rosedale
21 landfill?

1 A. I would think so. I am not sure.

2 Q. Did they bring wastes into Norris Farm
3 landfill?

4 A. Yes, they did.

5 Q. Do you recall where their wastes were
6 taken during the 1969 interval?

7 A. No, I do not.

8 Q. Did Robertson --

9 MS. DOANE: Objection.

10 Q. Did Robertson have customers in eastern
11 Baltimore?

12 A. I would think so.

13 Q. Did Robb Tyler ever pick up from
14 Robertson stops?

15 A. Probably, and probably Robertson
16 subcontracted some from Robb Tyler. Robertson
17 was an ex-employee of Robb Tyler. He had just a
18 few trucks.

19 Q. Did Robertson have any of his own
20 landfills?

21 A. No, he did not.

1 Q. On page 82 there are several entries
2 for a company called W. M. Schuman Trash Company
3 or Schuman Trash or W. F. Schuman. Was Schuman
4 Trash Company a waste hauler?

5 A. Yes.

6 Q. Did Schuman Trash Company bring wastes
7 into the Robb Tyler landfills?

8 A. Probably, although I think Schuman at
9 that time was a Baltimore County residential
10 hauler.

11 Q. Do you recall whether Schuman has ever
12 used Rosedale?

13 A. I don't think so.

14 Q. Did Schuman's have any industrial or
15 commercial customers?

16 A. I doubt it.

17 Q. Did Schuman have any of his own
18 landfills?

19 A. No.

20 Q. Did Robb Tyler, Inc. ever pick up from
21 Schuman stops?

1 A. I doubt it.

2 Q. On page 84, the last entry, and the top
3 of 85 there are several entries for Thompson's
4 Refuse. Is Thompson's Refuse a waste hauler?

5 A. Yes.

6 Q. Did Thompson's Refuse have their own
7 landfills?

8 A. No. Thompson's Refuse has one truck.

9 Q. Did Thompson's Refuse use Rosedale
10 landfill?

11 A. Probably.

12 Q. Do you recall whether Thompson's Refuse
13 had any customers in eastern Baltimore?

14 A. He was a rear-end commercial-type truck
15 that picked up from restaurants and things like
16 that and probably ran a subcontract route for
17 Robb Tyler.

18 Q. Do you recall which customers of Robb
19 Tyler Thompson's would have picked up?

20 A. No, I do not.

21 Q. Do you recall which customers were

1 Thompson's own customers?

2 A. No, I do not.

3 Q. Do you recall which Robb Tyler
4 landfills Thompson's used?

5 A. No, I do not.

6 Q. Mr. Tyler, earlier today Tom Crowe, the
7 attorney for PORI, showed you what he had marked
8 as Exhibits 15-A through 15-H, I believe. Had
9 you seen any of these documents before today?

10 A. These? No.

11 Q. Do you have any personal knowledge as
12 to when Robb Tyler began picking up waste from
13 Palm Oil Recovery, Inc.?

14 A. No, I do not.

15 MR. LAND: Those are all the questions
16 I have.

17 MS. CASANO: It is approximately 12:30
18 and I am assuming there is not much questioning
19 left and therefore I am not planning on
20 suggesting taking a lunch break, but is there
21 anybody who knows that they have a significant

1 amount of questioning?

2 (Discussion off the record.)

3 EXAMINATION BY MR. BYRD:

4 Q. I have just got a couple questions.
5 Ron Byrd for BG&E.

6 Throughout your deposition you have
7 talked about the term general trash. When you
8 said general trash, did you mean by that paper
9 and wood products?

10 A. Yes.

11 Q. What was your role, if any, at Rosedale
12 after it closed?

13 A. To close it.

14 Q. How did you go about closing it?

15 A. Putting dirt on it.

16 Q. So it was essentially a covering
17 operation?

18 A. That is correct.

19 Q. And this covering operation continued
20 after trash stopped coming in?

21 A. Yes, it did.

1 Q. And do you know how long that
2 continued?

3 A. I don't really remember now. Until it
4 was done.

5 Q. Do you have any general idea of how
6 long that took place?

7 A. I don't know.

8 Q. I think you indicated when you were
9 marking the map that you did not believe the
10 Bowley Lane landfill was open during the late
11 1960s; is that your testimony?

12 MR. LUTZ: I don't think he testified
13 to that at all.

14 A. I don't think I testified to that. I
15 think it was open, but it was only used by City
16 trucks.

17 Q. Okay. You also indicated in your
18 deposition testimony last time that you did not
19 believe City ash went to Sauer's because they did
20 not need the ash; is that right?

21 MR. MASUR: Objection. Object to the

1 second half. I do recall him saying the City ash
2 did not go to Sauer's. I don't recall him giving
3 that as a particular explanation.

4 MS. CASANO: You sure you don't want to
5 retract that?

6 MR. MASUR: No, no, I recall the answer
7 being that none went there, but I believe that
8 misstates the reasons.

9 Q. Was your --

10 A. Irrespective, it didn't go to Sauer's
11 dump.

12 MR. MASUR: Thank you.

13 Q. Was that answer based on the fact that
14 Sauer's had dirt there?

15 A. I just know that it didn't go there. I
16 don't remember the reason.

17 Q. You don't recall the basis for your
18 knowing that?

19 A. No.

20 Q. Mr. Brager asked you this morning about
21 liquids that might be in trash compactors and

1 there was some testimony that liquids would run
2 out of the compactor after it was compacted; is
3 that your recollection of the testimony?

4 A. I said --

5 MR. LUTZ: Objection.

6 A. I said if liquids were put in, the
7 compaction containers were not liquid-proof so
8 any liquids that went in would, by nature, run
9 back out.

10 Q. Would it be fair to say that some of
11 the liquid would be captured within the
12 container?

13 A. It could be if, in fact, it were put
14 in, yes.

15 Q. Right. How large was the Quarantine
16 landfill, do you recall?

17 A. Acres, volume?

18 Q. Acres.

19 A. I think one tract was 50-some acres and
20 another tract about 30.

21 Q. So it was significantly larger than

1 Sauer's dump?

2 A. Yes.

3 MR. BYRD: That is all I have, thank
4 you.

5 EXAMINATION BY MR. JUSTIS:

6 Q. Mr. Tyler, I am Gary Justis
7 representing BFI. I have a couple follow-up
8 questions for you.

9 Do you what type of waste was generated
10 by Bruning Paints?

11 A. I really don't.

12 Q. Whether it was any liquid waste at all?

13 A. I just don't recall.

14 Q. How about Farboil?

15 A. I don't really recall that either.

16 MR. JUSTIS: That is all I have.

17 EXAMINATION BY MR. MASUR:

18 Q. My name is Dan Masur, I represent the
19 City of Baltimore.

20 In connection with the agreement
21 pursuant to which you obtained stock in BFI, did

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1 you also obtain a contractual right that BFI
2 would indemnify you in connection with any
3 liability relating to the business that had been
4 sold?

5 MR. LUTZ: Objection. You can answer.

6 A. I did not receive any stock in
7 connection with the sale of Robb Tyler, Inc. to
8 BFI.

9 Q. I am sorry. How did you obtain the
10 stock in BFI?

11 A. When I sold another company to them in
12 the '80s.

13 Q. Which company was that?

14 A. Modern, Inc.

15 Q. Okay. Do you know whether your father
16 has obtained any contractual right to
17 indemnification in connection with the sale of
18 Robb Tyler, Inc. to BFI?

19 A. No, I don't.

20 Q. Do you know whether your father agreed
21 to indemnify BFI in connection with the sale of

1 Robb Tyler, Inc. to BFI?

2 A. I think that would probably be in the
3 documents, but I don't recall if or if not that
4 were the case.

5 Q. Did BFI agree to indemnify you in
6 connection with the sale of Modern to BFI?

7 A. I just don't recall the documents.

8 Q. Is your father represented by counsel
9 at this time? I know he used to be represented
10 by Warren Rich's firm.

11 A. No, not specifically, no.

12 Q. He is not represented by the same
13 attorney that you are represented by?

14 A. No, not at this point, no.

15 Q. Are your attorney's fees being paid by
16 you?

17 MR. LUTZ: Objection.

18 Q. All right let me ask it the other way.
19 Are your attorney's fees being paid by BFI or
20 anyone else?

21 MR. LUTZ: Objection.

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1 A. No.

2 MS. CASANO: But nobody said you
3 couldn't answer.

4 A. I haven't paid any yet.

5 MR. LUTZ: I will vouch for that. I
6 haven't sent him a bill.

7 Q. Do you have an agreement with anyone
8 else that they will pay for your attorney's fees?

9 A. No, I don't.

10 Q. You testified earlier that you became
11 aware at some time of the significance of whether
12 the dumping had occurred on the north side or the
13 south side of what is now Lombard Street. Do you
14 recall that?

15 A. Yes.

16 Q. When did you become aware of the
17 significance of that fact?

18 A. When the government went and spent a
19 lot of money to clean it up.

20 Q. Were you aware of the significance of
21 that fact prior to your interview with the EPA

1 investigator?

2 A. Probably not. Although, you know, I
3 just don't recall.

4 Q. Do you recall whether you were aware of
5 the significance of that fact prior to your
6 interview with defense counsel on August 27,
7 1990?

8 A. I probably was.

9 Q. You say you probably --

10 A. I was aware that it was obviously of
11 some significance, yes.

12 Q. Do you recall, and I don't want to get
13 into attorney-client privileged communications,
14 but do you recall how it was that you became
15 aware of the significance of that fact? Do you
16 recall who it was that told you --

17 A. No. As I said, I was aware of the
18 superfund laws and therefore realized, of course,
19 that if there were a cleanup then there was some
20 significance to what had gone on.

21 MR. MASUR: I have nothing further.

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1 Thank you.

2 EXAMINATION BY MR. HAUSMAN:

3 Q. Mr. Tyler, I just have a question or
4 two.

5 MR. LUTZ: Name?

6 MR. HAUSMAN: Mark Hausman representing
7 Kewanee Industries.

8 Q. Do you have any personal knowledge of
9 any Bruning Paint Company wastes being taken to
10 Sauer's dump by Robb Tyler, Inc. or any other
11 waste hauler?

12 A. No, I don't.

13 Q. Do you have any perosnal knowledge of
14 any Bruning Paint Company wastes being taken to
15 any landfill, for that matter?

16 A. If they were a customer of Robb Tyler,
17 Inc. at a certain time, then their waste would
18 have gone to a landfill.

19 MR. HAUSMAN: Thanks.

20 MR. LINGAN: Two questions.

21 EXAMINATION BY MR. LINGAN:

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1 Q. Mr. Tyler, my name is Tom Lingan.

2 You mentioned in questioning from
3 Ms. Casano that approximately 30 percent of the
4 customers had the type of disposal equipment that
5 would require the driver to pick it up and return
6 it immediately to the site; is that how I
7 understood your --

8 A. What I was saying is that a number of
9 customers, the commercial customers, the stores,
10 apartments and all, would number a lot more
11 customers. They would have a lot less trash,
12 they would be in smaller containers and they
13 would be picked up by either a front-end loader
14 truck that would go from stop to stop and pick
15 the container up, dump it and put it back, at
16 that time, and then move on to the next stop; as
17 opposed to the number of customers that would
18 have been so-called roll-off customers or larger
19 container customers.

20 Q. If a customer was a call-in customer,
21 would that customer be serviced by the same

1 driver on a call-in basis or would that fluctuate
2 depending on --

3 A. It would fluctuate.

4 Q. Was there a regular practice of drivers
5 being assigned to service only call-in customers?

6 A. Almost all the roll-off business was
7 call-in.

8 Q. So were there drivers specifically
9 assigned or with respect to cabs that were
10 specifically equipped to handle only roll-off
11 boxes?

12 A. That is correct.

13 MR. LINGAN: Thank you.

14 MS. CASANO: Anyone? I have one and I
15 see Andy writing, so that means he probably has
16 one too.

17 EXAMINATION BY MS. CASANO:

18 Q. Can you recall, Mr. Tyler, the names of
19 any of the customers of Robb Tyler in east
20 Baltimore during the 1960s, the volume of whose
21 waste was such that the driver would go directly

1 from that customer to a landfill?

2 A. That would be any roll-off customer.

3 Q. Okay. Do you recall whether Western
4 Electric was such a customer during the 1960s?

5 A. Western Electric had both roll-off and
6 packer service.

7 Q. Is that true also of General Motors?

8 A. General Motors was, I think, mostly all
9 roll-off or dumpster.

10 Q. Okay. When did you become aware of the
11 superfund law that you talked about earlier as
12 understanding that it makes some transporters and
13 generators of waste, for example, liable for the
14 cleanup of a site?

15 A. I don't really recall when.

16 Q. When you were, during the time that you
17 worked for BFI, were environmental laws one of
18 your areas of responsibility? Or I am sorry, let
19 me rephrase that. During the time that you were
20 employed by BFI, were you responsible for
21 compliance with environmental laws?

1 A. I think anybody who worked for
2 Browning-Ferris would have been, yes.

3 Q. I guess I have to take that back.

4 MR. JUSTIS: I am sorry, would you read
5 back his answer.

6 (The record was read by the reporter.)

7 Q. Actually, I am asking about the wrong
8 time period, though, because you worked for BFI
9 up until 1979, correct?

10 A. That is correct.

11 Q. And superfund was not enacted until
12 1980 so you would not have known about that then.

13 Can you recall when you became aware of
14 the superfund statute specifically?

15 A. No, I don't.

16 Q. Do you recall whether the superfund
17 statute was something that you were aware of
18 prior to receiving the letter from EPA that
19 prompted your response of October 2, 1987 which I
20 think was marked as Exhibit 17 --

21 MR. GOLDMAN: 18.

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1 Q. Eighteen?

2 A. I am sure I was aware of it. I have
3 been in the environmental business one way or
4 another for that period, so --

5 MS. CASANO: I have no further
6 questions. Anyone else have anything?

7 We are concluded.

8 THE REPORTER: Do you want to read and sign?

9 MR. LUTZ: Yes.

10 THE REPORTER: Are there any changes
11 from the transcript order for volume I of
12 Mr. Tyler's deposition taken previously?

13 MR. BLEICHER: No.

14 MS. CASANO: No.

15 THE REPORTER: Mr. Brugge?

16 MR. BRUGGE: No.

17 (Examination concluded.)

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19

20

21

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